

RECEIVED

Oct 15 2025

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

B. Alex Hyman, Circuit Court Judge

Appellate Case No. 2025-001815
Circuit Court Case No. 2022-CP-23-01152

Frederick Jarvis,

Petitioner,

v.

State of South Carolina,

Respondent.

APPENDIX

Stephen Henry
406 Pettigru Street
Greenville, South Carolina 29601
(864) 232-9700
Attorney for Petitioner

Kaylee Christene Kemp
Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211
Attorney for Respondent

INDEX

Transcript of the Trial (Bench trial)	1
Amended Application for Post-Conviction Relief	4
Return to the Application	8
Transcript of the Post-Conviction Relief Hearing	15
Judicial Order of Dismissal	94
Post-Conviction Relief Hearing Exhibits	100
Motion to Alter Judgment	117
Return to Applicant's Motion to Alter or Amend Judgment	119
Order Denying Applicant's Motion to Alter or Amend Judgment ..	121

STATE OF SOUTH CAROLINA)	
	)	MUNICIPAL COURT
COUNTY OF GREENVILLE	)	Case # 20211090116536
CITY OF GREENVILLE)	
-v-)	
	)	<u>TRANSCRIPT OF HEARING</u>
FREDERICK JARVIS,	)	October 14, 2021
Defendant.)	

Bench trial held before the Honorable Matthew R. Hawley, Greenville Municipal Court Judge

CLERK OF COURT: Frederick Jarvis.

You have been charged with driving under the influence. Do you plead guilty or not guilty?

DEFENDANT JARVIS: Not Guilty.

JUDGE HAWLEY: Alright sir, if you'll raise your right had for me, please sir and promise that the testimony you're about to give in this case to be the truth, the whole truth, and nothing but the truth so help you God.

OFFICER: I do your honor.

JUDGE: Tell me your name sir.

OFFICER: Aaron Bowles.

JUDGE: Aaron Bowles?

OFFICER: OK sir.

JUDGE: Alright Officer Bowles. Tell me about it.

OFFICER: On Saturday October 2nd at approximately 2:34 a.m. while conducting uniform patrol duties myself and Officer Holford observed a 2013 Ford F-150 pick-up bearing South Caroline 154PA at the intersection of Haywood Road and I-385. The F-150 drove through the intersection and onto Northbound I-385 on ramp with an uncontrolled acceleration and squealing its tires. I followed the vehicle which was travelling at a high rate of speed. As I caught up to the vehicle I observed the F-150 unable to maintain its lane and travel crossing from the center line to the left-hand lane multiple times. I activated my blue lights and the

vehicle pulled over to the right side of the road. I approached the vehicle and identified myself and asked for license, registration, and proof of insurance from the driver, who identified himself as Fredrick Jarvis, who is in the court room today. The passenger identified himself as Christopher Pinto who is not here today, I don't believe. While speaking to the occupants I noted the odor of alcoholic beverage emitting from the vehicle. I observed both occupants to have slurred speech, glossy, blood shot eyes. When I asked, both denied consuming alcohol. I elected to remove Mr. Jarvis from the vehicle in order to interview him independently and assess his potential impairment. Jarvis exited the vehicle and I brought him to the median between the patrol car and his pick-up. I asked Mr. Jarvis if he consumed alcohol tonight and he flatly denied this and said that he was a type 1 diabetic and he needed his insulin. Jarvis claimed his blood sugar was normally 90. While explaining this he has difficulty pronouncing certain words, slurred speech and swayed continually. I went back to the passenger, Pinto, and asked him where they were drinking tonight, and Pinto stated that he was with Jarvis the whole evening and that they started drinking alcohol downtown at approximately 10 p.m. near Stone Pizza and then TD's as well as two other establishments. I asked what they drank, and he said they drank gin and tonics as well as beer. I confronted Jarvis with this information, and he continued to deny drinking and claimed he was having a diabetic reaction and could tell his blood sugar was over 500. I offered Jarvis the opportunity to perform SFSTs and he said he would need to talk to his attorney first. I placed him under arrest for DUI and I conducted a search of his person before he was secured in the back of my patrol vehicle. While in the back of the patrol car Jarvis questioned as to why he was being arrested and insisted to speak to his attorney and also have his blood sugar checked. He was advised of his Miranda warning and declined to make any statements to us. Pinto was picked up by an Uber driver and his vehicle was towed. While en route to the jail, Mr. Jarvis continued to demand to speak to his attorney and be evaluated for his blood sugar. As we arrived at the jail, we asked EMS to respond. While in the BA testing room EMS arrived and checked Jarvis' blood sugar which was 333. EMS personnel declined

to transport him stating the hospital cannot do anything for him and after a 20-minute observation period I read Jarvis the implied consent advisory and he refused to provide a breath sample. Jarvis also refused to sign any documents. While in the jail, medical staff checked Jarvis' blood sugar which was now 327 and elected to give him insulin. While speaking to medical staff Jarvis claimed he was in diabetic ketoacidosis. Medical staff stated the appearance of Jarvis' eyes were inconsistent with DK which is diabetic ketoacidosis and more consistent with having consumed alcohol.

JUDGE: Okay. What would you like to tell me about this Mr. Jarvis?

DEFENDANT: I would like to ask for a continuance.

JUDGE: Well, you had that opportunity earlier when I asked anyone who wanted one to come up. You just had a bench trial.

DEFENDANT: Well, uh, I wasn't here for that part.

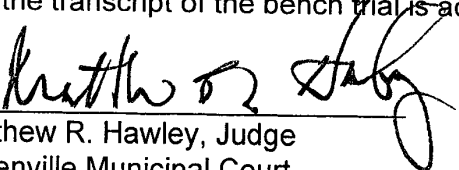
JUDGE: Well, that's on you for getting here late. Have him sit over in the box. You're in custody. Who's the lawyer you keep wanting to talk to? We'll call him and tell him to go see you down in detention.

DEFENDANT: Alright.

JUDGE: Next case madam clerk.

CERTIFICATION OF BENCH TRIAL TRANSCRIPT

I, JUDGE MATTHEW R. HAWLEY certify that I presided over the bench trial in the case of The City v. Frederick Jarvis on October 14, 2021. I further state that I have reviewed the transcript of the bench trial and I have listened to the tape recording of the trial. I find that the transcript of the bench trial is accurate and I so certify.


Matthew R. Hawley, Judge
Greenville Municipal Court

Greenville, South Carolina
Date: 9/13/22

STATE OF SOUTH CAROLINA)	
COUNTY OF GREENVILLE	)	COURT OF COMMON PLEAS
FREDERICK JARVIS,)	
Applicant,	)	Case No. 2022-CP-23- 01152
v.	)	<u>APPLICATION FOR POST</u>
STATE OF SOUTH CAROLINA,	)	<u>CONVICTION RELIEF</u>
Respondent.	)	Amended

FILED
 2022 OCT 11 10:52 AM
 CLERK OF COURT
 GREENVILLE COUNTY
 SOUTH CAROLINA

Applicant seeks an order setting aside his October 2021 Greenville Municipal Court conviction and granting him a new trial based upon violations of his state and federal constitutional rights, including his right to the immediate appointment of counsel when arrested and his right to a jury trial; he alleges and will prove the following.

1. Applicant is a citizen and resident of South Carolina and Greenville County.
2. Respondent is the State of South Carolina.
3. The applicant was arrested on October 2, 2021 and charged with driving under the influence.
4. He was released on his own recognizance after a short stay at the Greenville County Detention Center.
5. On October 14, 2021 the applicant appeared in Greenville Municipal Court (City Court).
6. His name was called and he went before the judge with the intention of asking for a continuance so he could have time to get legal counsel.
7. The applicant was indigent and would have qualified for court appointed counsel.
8. The applicant was not offered or questioned about counsel, either appointed or retained.
9. The applicant was not asked if he was proceeding voluntarily without a lawyer.
10. The applicant was not offered time to retain a lawyer for to apply for court appointed counsel.

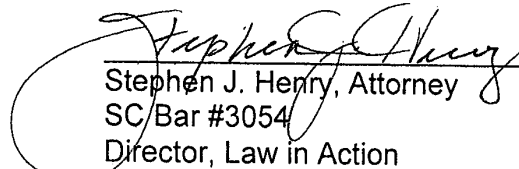
11. The applicant was not advised of the dangers of proceeding in court, particularly in a trial, without the benefit of a lawyer.
12. The applicant was not offered or questioned about whether he wanted a trial by jury.
13. When the applicant appeared before the bench, the clerk asked if he was pleading guilty or not guilty to which the applicant replied "not guilty".
14. Without understanding his right to counsel or his right to a jury trial or he proceedings generally, the applicant's bench trial began.
15. There was no prosecutor present for the City.
16. Upon information and belief, the arresting officer acted as the prosecutor for this case.
17. The applicant was not provided with pre-trial discovery including the police report so that he could question the officer at trial using that information.
18. Without the benefit of counsel the applicant did not know to make discovery requests pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure or to request evidence favorable to his case or in mitigation of any penalty pursuant to the Brady v. Maryland.
19. The officer testified about the arrest and relied heavily on inadmissible hearsay.
20. The trial judge, knowing the applicant was without counsel and had no knowledge of criminal law or procedure allowed the officer to introduce hearsay evidence.
21. Not having counsel and without assistance from the court, the inadmissible hearsay evidence was introduced against the applicant and led to his conviction.
22. When offered a chance to speak, and not knowing that he was in a bench trial, the applicant asked for and was denied a continuance.
23. The applicant was not offered an opportunity to cross-examine or question the arresting officer.
24. Before denying the continuance request the court did not inquire of the applicant the reason (or reasons) he wanted the case delayed.

25. The applicant wanted his case delayed so he could have legal counsel to represent him.
26. After the applicant's continuance was denied, the court did not ask the applicant to provide any evidence to refute the officer's testimony so that the applicant's side of the story was not told in court prior to the judge's ruling.
27. The court did not make it clear to the applicant that he would have testified to what happened in the case and/or present a defense.
28. Not knowing criminal procedure or his rights, the applicant made no objections to evidence, the denial of his continuance, the denial of his right to a jury trial, the denial of time to get a lawyer, the denial of his right to be screened for a free lawyer or any other matter related to his case.
29. The applicant was found guilty of DUI and was taken to jail pending sentencing.
30. The applicant was later returned to court from jail for sentencing.
31. The applicant was sentenced to time served with conditions and released.
32. The applicant had already served time in jail for the DUI charge based upon being taken into custody following his bench trial.
33. The applicant was not informed by the court of his right to appeal his conviction or sentence.
34. The applicant later requested copies of the tape recordings of his hearings to the City Court clerk and that request was denied.
35. The applicant alleges that his state and federal constitutional rights were denied as follows: right to counsel, right to free counsel, right to a trial by jury, right to be tried based on admissible evidence, right to appeal and the right to present a defense.
36. The applicant asks that his DUI conviction be vacated and that the DUI charge against him be dismissed since it was obtained based upon incompetent evidence.
37. In the alternative the applicant asks that his DUI conviction be set aside and a new trial granted.

38. Further in the event he is granted a new trial the applicant asks that he be appointed legal counsel for his defense, be provided discovery documents and be given sufficient time to prepare for trial.
39. The applicant alleges that but for the violation of his rights and the denial of a fair trial, the result of his DUI charge would have been different.
40. The applicant would have been able to present a viable defense at trial.
41. The applicant would have asked for and been assigned a lawyer to represent his interests, sought and obtained discovery evidence and requested a jury trial.

WHEREFORE Applicant asks this Court to schedule a hearing on this petition for post-conviction relief, to dismiss his DUI charge or in the alternative to grant him a new trial.

Submitted by,


Stephen J. Henry, Attorney
SC/Bar #3054
Director, Law in Action
406 Pettigru St.
Greenville, SC 29601
232-9700/232-9555 (fax)
sjhlaw@sjhlaw.com

Greenville, SC

July ²⁸~~29~~, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
)	
Frederick Jarvis,	)	Case No.: 2022-CP-23-01152
)	
Applicant,)	
)	
v.	)	RETURN TO APPLICATION AND
	)	MOTION FOR PARTIAL SUMMARY
State of South Carolina,	)	DISMISSAL
)	
Respondent.)	
)	

The State of South Carolina (“Respondent”), making its return to the application for post-conviction relief filed by Frederick Jarvis (“Applicant”), through counsel, on March 2, 2022, would respectfully show this Court:

I. Procedural History

Applicant is not presently imprisoned in the South Carolina Department of Corrections. On October 2, 2021, Applicant was cited with a uniform traffic ticket for driving under the influence (ticket number 20211090116536) in violation of S.C. Code Ann. § 56-05-2930 by a law enforcement officer employed by the Greenville Police Department. On October 14, 2021, Applicant was convicted of driving under the influence, less than .10, first offense, at a bench trial in the Greenville Municipal Court, with the Honorable Matthew R. Hawley (“the trial court”) presiding. Judge Hawley issued an order at the conclusion of the bench trial, requiring that Applicant be held for sentencing. On October 21, 2021, after a hearing the trial court issued an order requiring that Applicant be released from jail.¹

Applicant did not appeal his conviction or sentence.

¹ At this time, Respondent does not know what lawyer represented Applicant at the October 21, 2021, hearing.

II. Current Application

In his application for post-conviction relief, filed on March 2, 2022, Applicant argues he is entitled to relief based upon multiple claims, which Respondent interprets as follows: (1) Applicant's Sixth Amendment right to counsel was violated; (2) the trial court erred in violating Applicant's right to a trial by jury; (3) the trial court erred in improperly admitting evidence; (4) the trial court erred in denying Applicant's right to present a defense; and (5) Applicant did not knowingly and voluntarily waive his right to appellate review. Applicant prays that the Court would vacate his sentence or, in the alternative, to award him a new trial with appointed counsel and the opportunity to engage in discovery.

Attached to this return and incorporated herein by reference is a screen printout from the Greenville Municipal Court's summary of the case, the traffic ticket, the trial court's order of commitment, the order appointing counsel, the order of discharge, and the summary court summons. Respondent reserves the right to amend this return upon receipt of any relevant materials.²

III. Motion for Partial Summary Dismissal

Pursuant to S.C. Code Ann. § 17-27-70(c), this Court may summarily dispose of an application if there is no genuine issue of material fact in the "pleadings, depositions and admissions and agreements of fact" and the movant is entitled to judgment as a matter of law. The summary dismissal of an application for post-conviction relief without a hearing is appropriate only when it is apparent on the fact of the application that a hearing is not needed for the development of a factual record and the applicant is not entitled to relief. Mose v. State, 420 S.C. 500, 505, 803 S.E.2d 718, 720 (2017) (citing Leamon v. State, 363 S.C. 432, 611 S.E.2d 494

² Since the municipal court is not a court of record, Respondent may not be able to produce a transcript of the entire proceedings therein.

(2005)). The Court, in considering the motion for summary dismissal without the holding of an evidentiary hearing, must assume the facts presented by Applicant as true and view them in the light most favorable to Applicant. Robertson v. State, 418 S.C. 505, 519, 795 S.E.2d 29, 36 (2016) (citing McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013)).

Applicant raises claims that the trial court erred in violating his right to a trial by jury, erred in improperly admitting evidence, and erred in denying his right to present a defense. Those claims are not properly before this Court because Applicant could have raised them on appeal, but did not. Post-conviction relief is not a substitute for any remedy incident to the direct review of a defendant's sentence or conviction. S.C. Code Ann. § 17-27-20(B). "Error in a petitioner's trial which could have been reviewed on appeal may not be asserted for the first time, or reasserted, in PCR proceedings." Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975); Cummings v. State, 274 S.C. 26, 27-28, 260 S.E.2d 187, 188 (1979). "A party who fails to timely appeal or take any other timely action necessary to correct an error is procedurally barred from contesting the validity of the conviction." Town of Hilton Head Island v. Godwin, 370 S.C. 221, 224, 634 S.E.2d 59, 61 (Ct. App. 2006) (citing State v. Martin, 352 S.C. 32, 572 S.E.2d 287 (2002) (mem.)). By knowingly and voluntarily waiving his right to appellate review of his conviction and sentence, Applicant waived his right to raise the claims identified in this motion. If Applicant desired to be heard on those issues, he should have appealed. The Court should dismiss them as a matter of law.³

³ If the Court determines that Applicant did not knowingly and voluntarily waive his right to appellate review of his conviction and sentence, then the Court should consider these claims on their merits.

IV. Response to Belated Appeal Claim

Applicant raises a claim that he did not knowingly and voluntarily waive his right to appellate review.⁴ In White v. State, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974), the South Carolina Supreme Court held that, even though the post-conviction relief court may find that an applicant did not voluntarily and intelligently abandon his right to a direct appeal, the post-conviction relief court does not have jurisdiction to grant a belated appeal. However, when an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. Id. at 119, 108 S.E.2d at 39-40.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470 (2000). When counsel has consulted with the defendant regarding the right to appeal, “Counsel performs in a professionally unreasonable manner only by failing to follow the defendant’s express instructions with respect to an appeal.” Id. at 478 (underlining added). In order to establish that he was prejudiced by counsel’s failure to file an appeal, an applicant must show he would have appealed absent counsel’s deficient performance. See Id. at 484.

Respondent submits that Applicant likely cannot show that he is entitled to post-conviction

⁴ Applicant would have had to appeal to the Circuit Court. “Any party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of the county in which the trial is held. Notice of intentional to appeal, setting forth the grounds for appeal, must be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after the sentence is passed or judgment rendered, or the appeal is considered waived.” S.C. Code Ann. § 14-25-95.

relief based upon this claim, but requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

V. Response to Applicant Claims on the Merits

“The Sixth Amendment to the United States Constitution guarantees an accused’s right to the assistance of counsel. A defendant may waive his right to counsel, but he must do so knowingly and intelligently. For a knowing and intelligent waiver to occur, the defendant must be (1) advised of his right to counsel; and (2) adequately warned of the dangers of self-representation. The burden is on the State to demonstrate the validity of a defendant’s waiver of his right to counsel.” State v. Dial, 429 S.C. 128, 133, 838 S.E.2d 501, 504 (2020) (internal quotation and citations omitted). “The request to proceed pro se must be clearly asserted by the defendant prior to trial.” State v. Plumer, 433 S.C. 300, 312, 857 S.E.2d 796, 802 (Ct. App. 2021) (quotation and citation omitted). “It is the responsibility of the trial judge to conduct a hearing to determine whether an accused’s request to proceed pro se is accompanied by a knowing and intelligent waiver of the right to counsel.” State v. Dial, 429 S.C. 128, 132, 838 S.E.2d 501, 503 (2020) (quoting State v. Cash, 304 S.C. 223, 403 S.E.2d 633 (1991)). A defendant may waive his right to counsel by conduct if he has been warned of the dangers of self-representation. See Osbey v. State, 425 S.C. 615, 825 S.E.2d 48 (2019) (finding that the post-conviction relief court erred in finding that Osbey waived his right to counsel by conduct because Osbey was not warned of the dangers of self-representation, and nothing that the Supreme Court had recognized in numerous cases that a defendant may be found to have waived his right to counsel when it was clear that the defendant knew that his unreasonable delays could result in such a waiver).

In Argersinger v. Hamlin, 407 U.S. 25, 37 (1972), the United States Supreme Court held that a defendant may not be imprisoned for any offense, whether a petty, misdemeanor, or felony offense, unless he was represented by legal counsel or knowingly and intelligently waived his right to counsel. The Court explained that a court proceeding regarding a misdemeanor would be affected by Argersinger only if the proceeding resulted in the “actual deprivation” of a defendant’s liberty from imprisonment. Id. at 40. If the sentencing court may impose a sentence of imprisonment but does not actually so sentence a pro se defendant, the defendant’s right to counsel is not violated. Glaze v. State, 366 S.C. 271, 274, 621 S.E.2d 655, 656-57 (2005) (“In other words, actual imprisonment is the event that triggers the right to counsel.”) (citing Scott v. Illinois, 440 U.S. 367 (1979)).

Respondent submits that Applicant likely cannot show that he is entitled to post-conviction relief based upon his claims, but requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper, at 265, 305 S.E.2d at 248 (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record).

VI. Denial of All Other Claims

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VII. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent pursuant to Love v. State, 428 S.C. 231, 238-39, 834 S.E.2d 196, 199-200 (2019), or, alternatively, Respondent will move for a continuance in the

matter. See Love, at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to S.C. Code Ann. § 17-27-150(a) (2008), an applicant in a non-capital post-conviction relief action may invoke discovery under the South Carolina Rules of Civil Procedure only if granted leave to do so by a court upon a showing of good cause. If Applicant attempts to invoke discovery powers without first obtaining leave to do so by a court upon a showing of good cause, Respondent will oppose those attempts.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court summarily dismiss the claims identified in the motion to partial summary dismissal included above and then convene an evidentiary hearing on the claims raised in the application, if such is necessary.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

June 20, 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF WITNESSES

FREDERICK JARVIS

Direct By Mr. Henry	13
Cross By Mr. Runyan	23
Redirect By Mr. Henry	35
Examination By The Court	36

JOHN MAULDIN

Direct By Mr. Henry	37
Cross By Mr. Runyan	52

ZACK KLEBE

Direct By Mr. Henry	55
Cross By Mr. Runyan	62
Redirect By Mr. Henry	64
Recross By Mr. Runyan	66

CHRISTOPHER PINTO

Direct By Mr. Henry	67
Cross By Mr. Runyan	72

» > o < «

Closing Statement by Mr. Henry	73
Closing Statement by Mr. Runyan	74
Certificate of Reporter	79

APPLICANT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Ticket	10	
2	Booking report	10	
3	Bail form	10	
4	Commitment	10	
5	Checklist	10	
6	Discharge	10	
7	Transcript	10	
8	Commitment	10	
9	Booking report	10	

1	10	Form IV	10
2	11	Discharge	10
3	12	Redacted transcript	48
4		All exhibits were retained by Greenville County Clerk of Court.	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 THE COURT: All right, Mr. Runyan, call your
2 first case.

3 MR. RUNYAN: May it please the Court?

4 THE COURT: Yes.

5 MR. RUNYAN: Your Honor, the next case is
6 2022 -- docket number 22-CP-23-1152, Frederick Jarvis
7 vs. The State of South Carolina. Your Honor, this is
8 just a brief introduction. This is a PCR application
9 stemming from a bench trial before Judge Hawley on
10 October 14th, 2021. There was no appeal to this.
11 The Applicant is claiming that, essentially, that his
12 state and federal Constitutional rights were denied
13 as to trial, as to right to counsel, the right to
14 free counsel, the right to a trial by jury, the right
15 to be tried based on admissible evidence and the
16 right to appeal and the right to present a defense.

17 Your Honor, I will say that we -- in our return
18 that you have, we filed a motion for summary
19 judgment, in part, to some of the issues that could
20 have been raised on an appeal, and we maintain that
21 motion. We would ask that you hear that now.
22 Because most of the things The Applicant raises, is
23 denial of a continuance. The fact that it was
24 improper and inadmissible hearsay evidence, that he
25 didn't present a defense, that he had a right to a

1 jury trial. These are all things that he could have
2 raised on appeal. And as you know, Your Honor,
3 post-conviction relief is not a substitute for -- or
4 a remedy in the direct appeal to the defendant's
5 sentence or conviction. An error in the petitioner's
6 trial, which could have been reviewed or appeal, may
7 not be asserted for the first time or reasserted in a
8 PCR proceeding, according to Simpson v. State. And
9 that's in our return on the motion for summary
10 judgment.

11 So, Your Honor, we just ask that those -- I
12 mean, I don't think there's any dispute that, you
13 know, we can hear The Applicant's claim that he was
14 denied or deprived his right to counsel. But these
15 other arguments made during the trial about
16 inadmissible hearsay and improper continuance, I
17 think these are things that are foreclosed on at this
18 point because he did not appeal those issues.

19 THE COURT: All right, let me hear from
20 Mr. Henry.

21 MR. HENRY: Thanks, Judge, good afternoon.

22 THE COURT: Good afternoon.

23 MR. HENRY: First thing is that one of the cases
24 that was cited by The State, was cited in their
25 brief, I think is important to take a look at.

1 Because, obviously, the law is that a failure to
2 object during the trial waives any issue for appeal.
3 And part of this whole case is about -- this is Fred
4 Jarvis, by the way. Fred was there like a deer in
5 the headlights and he had no way to object, couldn't
6 object, so there could not have been an appeal on
7 those issues. And as Cummings said, in the case they
8 cited, is standard case law. No objection, no
9 appeal. He didn't object, couldn't have appealed.

10 THE COURT: All right.

11 Mr. Runyan.

12 MR. RUNYAN: Your Honor, if I could, add one
13 fact.

14 THE COURT: Yes.

15 MR. RUNYAN: Mr. Jarvis was represented by
16 retained counsel at his sentencing hearing so he had
17 counsel, at that time. He's not claiming that his
18 sentence counsel was ineffective for not appealing.
19 But he was represented at the time of the sentence so
20 he did have counsel that he could have properly
21 appealed these items.

22 MR. HENRY: Not the trial issues, Judge.

23 THE COURT: Well, and as far as the trial,
24 again, this is the first time I'm looking at this,
25 we, obviously, had other things going on this week.

1 Give me a little brief background on what this even
2 is.

3 MR. RUNYAN: Your Honor, this is a DUI.
4 Mr. Jarvis was pulled over during a traffic stop with
5 a co-defendant. And he was -- he refused to blow in
6 the breathalyzer, he was taken to the hospital
7 claiming he was -- he is a diabetic and he was
8 claiming he was in some sort of diabetic shock or
9 something like that. He was taken to the jail, which
10 he was to, you know, sign any documents.
11 Technically, he was given insulin while he was there.
12 And then he was given his Miranda rights
13 [indiscernible] went to trial on the 14th, he
14 represented himself.

15 MR. HENRY: Not quite.

16 THE COURT: Okay.

17 MR. HENRY: He came back for court on the 14th,
18 did not know there would a trial, he came back and
19 asked for a continuance so he could get a lawyer,
20 Judge.

21 THE COURT: So was this just a bench trial?

22 MR. HENRY: It turned out to be one. He didn't
23 know that but that's what it was.

24 THE COURT: All right.

25 MR. RUNYAN: Your Honor, the evidence we're

1 going to put in, this was a inform traffic ticket, it
2 says date of trial. And the date, that's when he
3 showed up. You know, he was well aware.

4 MR. HENRY: That's just a court notice, not a
5 trial notice.

6 THE COURT: And I'm going to tell you, all this
7 sounds somewhat intertwined. I'm going to hear it
8 all, Mr. Runyan, I'm going to deny your motion, at
9 this point. It may be something that I take up later
10 after hearing more evidence.

11 MR. RUNYAN: Yes, sir.

12 MR. HENRY: Judge, first thing, I sent all the
13 documents what he had to the attorney general's
14 office and we've got a stipulation on 11 of those.

15 THE COURT: Okay.

16 MR. HENRY: I'd like to hand those up so we can
17 get a head start on that.

18 THE COURT: Please.

19 MR. RUNYAN: Can I see these? Are these the
20 ones we agreed on?

21 MR. HENRY: Yeah.

22 MR. RUNYAN: Okay.

23 THE COURT: Okay.

24 MR. HENRY: It may be good to mark them
25 individually, Judge. Because I've also got a

1 notebook with a tab for the witnesses.

2 THE COURT: All right, let me take a look at
3 them first.

4 MR. HENRY: All right.

5 THE COURT: Madam Court Reporter, I have an
6 exhibit list here, if we could mark these 1 through
7 11.

8 (WHEREUPON, Applicant's Exhibits Nos. 1-11 were
9 marked for identification only.)

10 THE COURT: All right, yes, sir, you may
11 continue.

12 MR. RUNYAN: Your Honor, as we were
13 investigating this case, we have found through the
14 public index, that Mr. Jarvis had some other
15 interaction with the legal system. And we ran a
16 criminal background check on him. And, you know, for
17 full discovery and full disclosure, I told, Mr. Henry
18 this, but I am not allowed to give him this protected
19 information. I'm not allowed to give it to him
20 unless I'm under a court order. And I would like you
21 to order me on the record that I can give it to him
22 because it is protected information. The reason why
23 we want this information, Your Honor, is -- may I
24 approach, Your Honor?

25 THE COURT: Yes.

1 MR. RUNYAN: The State v. McLauren, as Mr. Henry
2 said, I think, he just said that Mr. Jarvis was
3 confused when he went in for his -- his bench trial.
4 And, you know, in McLauren, they talk about -- I
5 guess, also, their main point here is that he was
6 denied his right to counsel. And that counsel wasn't
7 warned of these Faretta-type warnings. And in
8 McLauren on Page 4, at the bottom, they found that in
9 the absence of specific inquiry by a trial judge,
10 addressing the disadvantage of a pro se defense, as
11 required by the second Faretta prong, the appellate
12 court will look to the record to determine whether
13 the petitioner had sufficient background or was
14 apprized of his rights by some other source. And
15 then they go into what's called State vs. Cash
16 factor, there's nine of them.

17 And, Your Honor, we think that this information
18 of Mr. Jarvis' prior background and interaction with
19 the legal system is one those factors. And we would
20 like to explore that during trial. So I would just
21 ask that we be allowed to give Mr. Henry this NCIC
22 report.

23 THE COURT: All right, I'm going to allow you to
24 give it to him. And whether or not I let you get too
25 far down that road during cross, we'll cross that

1 bridge when we get to it.

2 MR. RUNYAN: Thank you, Your Honor.

3 MR. HENRY: Well, you want to deal with that
4 issue now or let it go for now?

5 THE COURT: We'll let it go for now.

6 MR. HENRY: All right.

7 THE COURT: All right.

8 MR. HENRY: I put a notebook together with
9 exhibits in it, it might be easier for you to manage
10 if want me to give it to you.

11 THE COURT: Well, I got your exhibits here
12 but --

13 MR. HENRY: Okay, that's fine.

14 THE COURT: -- I can hand those to the court
15 reporter so that you can use them if you need to
16 reference them. But you said--

17 MR. HENRY: I just did a notebook to make it
18 easier for the witnesses.

19 THE COURT: Thank you.

20 MR. HENRY: All set?

21 MR. RUNYAN: Well, unless you want to talk about
22 your expert.

23 MR. HENRY: Let me call him and --

24 MR. RUNYAN: Okay.

25 THE COURT: Yes, sir.

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 MR. HENRY: Call Fred Jarvis.

2 Fred, come up.

3 He's bringing with him a notebook with the
4 exhibits, Judge.

5 THE CLERK: Step around to the witness booth.
6 Place your left hand on the Bible, raise your right
7 hand.

8 FREDERICK JARVIS, after being duly
9 sworn{,} testified as follows:{F}

10 THE CLERK: Thank you, you may be seated. And
11 please state your full name for the record.

12 THE WITNESS: Frederick Jarvis.

13 DIRECT EXAMINATION

14 BY MR. HENRY:

15 Q All set?

16 A All set.

17 Q All right. Fred, you're here challenging your
18 October 21 conviction for DUI in city court in Greenville;
19 correct?

20 A Yes.

21 Q Okay. And just to give a little background, you
22 were arrest -- you were arrested on October 2nd of '21?

23 A Yes.

24 Q Okay. And after you got arrested were you then
25 released on a recognizance bond?

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 A Yes.

2 Q Okay. So between that date and the trial date,
3 when was your court date?

4 A October 14th.

5 Q Okay. So--

6 A Of '21.

7 Q Okay. So between October 2nd, when you were
8 arrested and October 14th of '21, you just waited for your
9 court date and showed up; is that right?

10 A Yes.

11 Q Okay. When you went to court, tell The Court
12 what happened. When you came to the city courthouse.

13 A I went to court, it was my name is called and I
14 went up there. And I tried to ask for a continuance. And
15 whenever I asked for a continuance, The Judge said I
16 should have said something before.

17 Q Okay. All right. So before you went in front
18 of The Judge on October 14th, had you been advised of how
19 to get a lawyer? Had you been told how to get a lawyer?

20 A No.

21 Q Had you been told that you had a right to -- or
22 how to get a jury trial?

23 A No.

24 Q What was the purpose of you asking for the
25 continuance that day, Fred?

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 A So I could have some type of defense.

2 Q Okay. Now, the -- you've seen the transcript
3 with your -- now a bench trial, you've seen that?

4 A Yes.

5 Q Did you know you were having a bench trial at
6 the time?

7 A No.

8 Q What did you think was happening?

9 A I thought they were just stating the facts. And
10 just, basically, just telling me what I was being charged
11 with.

12 Q Okay. All right. So at any point -- at any
13 point during that bench trial, did The Judge ask you
14 whether you wanted a jury trial?

15 A No.

16 Q Okay. Did he ask you whether you wanted a
17 lawyer?

18 A No.

19 Q Did he ask you whether you could -- might
20 qualify for a free lawyer?

21 A No.

22 Q At that time, with respect to your job
23 situation, do you believe you would have qualified for a
24 free lawyer?

25 A Yes.

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 Q Okay. So were you working, at that time?

2 A No.

3 Q Okay. Now, when the trial was going on, The
4 Judge, at some point, asked you -- you first made a
5 comment, he said, what do you want to say, what do you
6 have to say? Is that when you asked for the continuance?

7 A Yes.

8 Q And he said, Too late?

9 A Yes.

10 Q Now, did he offer you a chance to question the
11 officer?

12 A No.

13 Q Now, during the trial, the officer testified
14 about some things that were said, supposedly, by someone
15 named Chris Pinto. Who is Chris Pinto?

16 A Chris Pinto is the co-defendant.

17 Q Okay. When you say co-defendant, you're
18 repeating what he's called, a co-defendant. Was Chris,
19 actually, charged?

20 A No, Chris was not charged.

21 Q Do you know what co-defendant means?

22 A No, not the full term, no.

23 Q Okay. Was Chris a passenger?

24 A Chris was a passenger.

25 Q And he wasn't charged with anything?

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 A No.

2 Q When you got arrested by the police and stopped
3 in your car, was Chris released and sent on his way?

4 A Yes.

5 Q All right. And was Chris there for your trial?

6 A No.

7 Q Okay. Do you know how -- did you know how to
8 make a request for discovery under Rule 5?

9 A No.

10 Q Do you know what Rule 5 is?

11 A No.

12 Q Did you know how to make a request under Brady
13 vs. Maryland?

14 A No.

15 Q Do you know what that is?

16 A No.

17 Q Do you know -- did you know how to issue a
18 subpoena?

19 A No.

20 Q At the end of the trial, on the 14th of October,
21 what happened to you, at that point?

22 A They detained me.

23 Q Okay. Detained you, they sent you to jail?

24 A Yes.

25 Q Okay. And so were you held there for a period

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 of time?

2 A Yes.

3 Q Do you remember how long you stayed there before
4 you came back to court?

5 A A week.

6 Q When you came back to court a week later, was
7 that October 21st?

8 A October 22nd.

9 Q Okay. All right. When you came back to court,
10 is that when you were sentenced?

11 A Yes.

12 Q What was your sentence, do you remember what it
13 was?

14 A I believe it was time served.

15 Q Okay. Did you go home at that point?

16 A Yes.

17 Q Okay. So you had been in jail then from the
18 14th when you went to court until the 22nd or 21st when
19 you got back to court for sentencing and released on time
20 served?

21 A Yes.

22 Q Okay. All right. At any point in time, did
23 anybody screen you for a lawyer? To see if you qualified
24 for a free lawyer?

25 A No.

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 Q Did you talk to anybody from the office of
2 indigent defense?

3 A No.

4 Q Do you know what the office of indigent defense
5 is?

6 A No.

7 Q Did you talk with anyone with the public
8 defender's office?

9 A No.

10 Q Do you know what the public defender is?

11 A Yes.

12 Q Okay. Had you ever had a trial before, ever?

13 A No.

14 Q Bench trial or jury trial?

15 A No.

16 Q With respect to the incident, were you under the
17 influence?

18 A No.

19 Q Did you -- had you been drinking all day?

20 A No.

21 Q Do you remember that the officer said that you
22 had at the hearing?

23 A Yes.

24 Q And did he, also, testify that he got that
25 information from Chris Pinto, the passenger?

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 A Yes.

2 Q Now, was that true information or false
3 information?

4 A False information.

5 Q What, in fact, happened that day on October 2nd
6 when you were charged with DUI, what had you been doing?

7 MR. RUNYAN: Objection, Your Honor, he's trying
8 to retry the facts of this case.

9 THE COURT: I'm going to allow it.

10 MR. RUNYAN: Okay.

11 BY MR. HENRY:

12 Q Go ahead. Let me ask it this way. How did you
13 come in contact with Chris Pinto on October the 2nd when
14 you were arrested?

15 A He asked me for a ride.

16 Q Okay. So you were -- before he asked you for a
17 ride, you were not with Chris that day?

18 A No.

19 Q And that's different from what the officer
20 testified to at your trial; right?

21 A Yes.

22 Q Okay. And Chris was not in the courtroom, as
23 far as you know he was not there, you didn't subpoena him?

24 A No.

25 Q Did you even know you were going to have a

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 trial?

2 A No.

3 Q If you got a chance to have a retrial, would you
4 then call Chris as a witness?

5 A Yes.

6 Q Would you expect that he would confirm what you
7 just said about you being called by him and being picked
8 up?

9 MR. RUNYAN: Objection, speculation.

10 THE COURT: I sustain that.

11 MR. HENRY: Okay.

12 THE WITNESS: Yes.

13 BY MR. HENRY:

14 Q But you would call him as a witness?

15 A Yes.

16 Q Okay. All right. Did you -- were you provided
17 any police reports before the October 14th date?

18 A No.

19 Q Have you ever been provided any police reports
20 in this case?

21 A No.

22 Q So you don't know what the officer wrote in his
23 reports?

24 A No.

25 Q Okay. During the trial, did The Judge say to

FREDERICK JARVIS-DIRECT BY MR. HENRY

1 you, now it's your turn to testify about what happened,
2 something like that?

3 A No.

4 Q Did The Judge offer you a chance to
5 cross-examine or ask questions of the officer?

6 A No.

7 Q When did you first realize that something -- now
8 looking back on it, you know that something was wrong with
9 that; don't you?

10 A Yes.

11 Q When did you first realize it?

12 A When The Judge mentioned, well, you know, you
13 just went through a bench trial. And that's when it
14 dawned on me.

15 Q Okay. Until then you didn't know what was going
16 on?

17 A No.

18 MR. HENRY: Judge, that's all I have of this
19 witness.

20 THE COURT: Counsel.

21 MR. RUNYAN: Thank you, Your Honor, may it
22 please the Court?

23 THE COURT: Yes.

24 MR. RUNYAN: One moment, Your Honor.

25 THE COURT: Sure.

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 MR. RUNYAN: My exhibits weren't marked, Your
2 Honor, I apologize.

3 CROSS-EXAMINATION

4 BY MR. RUNYAN:

5 Q Good afternoon, Mr. Jarvis.

6 A Good afternoon.

7 Q Tell me how old -- just what's your date of
8 birth?

9 A December 17th, 1990.

10 Q Okay. So, at the time of the this trial, you
11 were what? You were 30 years old?

12 A Yes.

13 Q Okay. Now you state you didn't have a job but
14 you were a senior at The University of South Carolina
15 Upstate; is that correct?

16 A Yes.

17 Q Okay. You graduated high school?

18 A Yes.

19 Q Okay. Where did you go, Riverside?

20 A Yes.

21 Q Okay. Now, you were arrested on October 2nd; is
22 that right?

23 A Yes.

24 Q For DUI. And you were released on a personal
25 recognizance; is that correct?

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 A Yes.

2 Q Now, I'm going -- just want to show you what you
3 guys entered as Exhibit 4 --

4 I'm sorry, Exhibit 5, Your Honor.

5 You have Exhibit 5 up there?

6 A Uh-huh.

7 Q It would look like this one. You with me?

8 A Uh-huh.

9 Q Okay. So this is the bond form one, personal
10 recognizance right is checked there? In that box at the
11 top it says, Bail proceeding, at the top here?

12 A Yes.

13 Q And then it down there it says Bond form one
14 personal recognizance?

15 A I see it.

16 Q This is your signature down here?

17 A Yes.

18 Q Okay. All right. And are these your initials
19 at each one of these at number one, number two, number
20 four and number five?

21 A Yes.

22 Q Okay. I want to go to number five, Mr. Jarvis,
23 and I'm just going to read it. And you tell me if you
24 initialed this.

25 In all general sessions cases and in all

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 criminal domestic violence cases and in all magistrate and
2 municipal cases, in which a person's sentence is likely to
3 be imposed, The Defendant was informed of the following.

4 Is that what it says?

5 A Yes.

6 Q And there's a X mark next to A, right?

7 A Yes.

8 Q And it says, Charges against The Defendant and
9 nature of the charges; right?

10 A Yes.

11 Q Okay. And then you have a X down there with B;
12 right?

13 A Yes.

14 Q So 5B, that you initialed, right to counsel and
15 right to court appointed counsel if financially unable to
16 employee counsel.

17 You were aware of that; right?

18 A Yes.

19 Q Okay. And then here on number C, X, The
20 Defendant was informed orally and provided a copy of this
21 form advising him of his rights to obtain a court
22 appointed counsel if indigent must meet poverty guidelines
23 and instruction on how to obtain court appointed counsel.
24 In order to apply for court appointed counsel, The
25 Defendant is required to appear for Greenville Municipal

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 Court, located at 426 North Main Street, Greenville, South
2 Carolina for indigent screening. Defendant's responsible
3 for paying statutory fee of \$40 for indigent screening.

4 Do you see that?

5 A Yes.

6 Q Okay. And all those are marked and you
7 initialed and signed this that you understood all that
8 stuff; is that right?

9 A Yes.

10 Q Okay. So on October 2nd when you got released,
11 on October 3rd, did you go down to the Greenville
12 municipal court?

13 A No.

14 Q No. Did you pay the 40-dollar screening
15 indigency fee?

16 A No.

17 Q No. Did you call an attorney on the phone? Did
18 you go to the phone book and look online for an attorney?

19 A No.

20 Q You didn't. So you did that -- on October 4th
21 did you do that?

22 A No.

23 Q Anytime intervening between October 2nd, and
24 October 14th, the date of your trial, did you do anything
25 to try to obtain an attorney?

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 A No.

2 Q Did you do anything to go down and get a court
3 appointed attorney?

4 A No.

5 Q And you were aware that you had that right;
6 weren't you?

7 A Yes.

8 Q Okay. Now, I'm going to go to -- if you'll just
9 flip to the first, I believe it's the first exhibit there
10 that's been entered. The first one, Mr. Jarvis. Looks
11 like this, is that right? Are we on the same page?

12 A (The witness nods.)

13 Q If you would just answer -- she needs to hear a
14 verbal.

15 A Yes.

16 Q You're on the same page?

17 A Yes.

18 Q Okay. Thank you. All right. Down -- about
19 half way down here, Mr. Jarvis, this is a ticket you got;
20 isn't it?

21 A Yes.

22 Q And it says right there, it says, Date of trial.

23 What date does it say?

24 A October 14th, 2021.

25 Q It says time of trial; right?

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 A Yes.

2 Q What time does it say?

3 A Nine.

4 Q Okay. Then does it tell you where to go?

5 A Yes.

6 Q Okay. And that's what 426 North Main Street
7 Greenville, South Carolina?

8 A Yes.

9 Q Okay. And, in fact, you did show up on
10 October 14th; didn't you?

11 A Yes.

12 Q Okay. So you knew you were there for a trial;
13 didn't you.

14 A Not a trial.

15 Q Not a trial? Okay. Did you -- well, I think
16 there's some testimony or some stuff in the trial
17 transcript, you showed up late; didn't you?

18 A Yes.

19 Q Okay. So you can't tell us anything that was
20 said prior to you being there late, can you?

21 A No.

22 Q So you don't know what was said?

23 A No.

24 Q But we do know that, from the trial transcript,
25 that The Judge asked anyone who needed a continuance to

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 come up and he would entertain those continuances; is that
2 right?

3 MR. HENRY: Objection.

4 THE COURT: Sustained. He's already answered he
5 wasn't there.

6 MR. RUNYAN: Well, no this is during the trial
7 transcript.

8 THE COURT: I understand that but you're asking
9 him to speculate. I understand The Judge said that
10 but he wouldn't know that.

11 MR. RUNYAN: Okay.

12 BY MR. RUNYAN:

13 Q Okay, you wouldn't know that. Well, you were
14 there for the -- to hear what the officer had to say;
15 weren't you?

16 A Yes.

17 Q Okay. And he said that during, this is in the
18 trial transcript that you guys have entered into evidence,
19 that he testified that you were saying that you wanted to
20 talk to your attorney. In fact, he said, quote, as he
21 said, He wanted to talk to his attorney first; is that
22 right?

23 A Yes.

24 Q Okay. So you told the officer you wanted to
25 talk to an attorney?

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 A I did.

2 Q Your attorney?

3 A Well, just an attorney.

4 Q Well, he says you said, You wanted to talk to
5 his attorney. Meaning yours. Is that right?

6 A Well, I had a counsel called Legal Shield. And,
7 at that time, I would have -- if I did get in trouble, I
8 found out after the fact, that if I did get in trouble,
9 then I would have to pay them for their services. But I
10 did not have one on retainer.

11 Q You didn't have one on retainer but you had an
12 attorney or legal service you were talking to; right?

13 A No.

14 Q You said Legal Shield?

15 A Well, the only thing that I got from them was to
16 ask for a continuance. And they said after I asked for a
17 continuance they would help me.

18 Q Okay.

19 A By that time it was too late.

20 Q Well, let's talk about that. So when you got up
21 there and The Judge said what -- so the officer put his
22 evidence on the record and The Judge said, and this is on
23 the second page of the transcript, Judge says, Okay, what
24 would you like to tell me about this, Mr. Jarvis?

25 Did you tell him about the case? Did you

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 say, I didn't do that?

2 A No.

3 Q No. What did you say? You said I would like to
4 ask for a continuance?

5 A Yes.

6 Q That's a pretty specific word, Continuance;
7 right.

8 A Yes.

9 Q Did you know what that meant?

10 A Yes.

11 Q What did it mean to you, when you asked for it?

12 A To push back time in order to get adequate
13 defense.

14 Q Okay. Did you tell The Judge, I want a
15 continuance because I want an attorney?

16 A No.

17 Q Did you say, at any time, I didn't do the things
18 that the officer said I did?

19 A No.

20 Q Now, Mr. Jarvis, I just want to talk about, you
21 had mentioned it just a few minutes ago, that you had some
22 legal troubles before; right?

23 A Yes.

24 Q Okay. And, in fact, I don't want you to tell me
25 what you were convicted of, I just want to know, you pled

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 guilty to several offenses; is that correct?

2 A Yes.

3 MR. HENRY: I'm going to object to all this,
4 Judge. I don't see the relevance.

5 THE COURT: I'm going to allow him to answer
6 this. I'm not going to let him get into details
7 about what is he's pled guilty to.

8 MR. RUNYAN: I don't have any details either, my
9 argument earlier, Your Honor, was just to establish
10 that he has had contact with the legal system. And,
11 in fact, has been represented before in a bench
12 trial. Which he said he had not been during direct.

13 THE COURT: Gotch you.

14 MR. RUNYAN: Okay.

15 MR. HENRY: My objection stands. And that's a
16 mischaracterization of the public index, by the way.

17 MR. RUNYAN: This is from the NCIC report that I
18 provided to--

19 THE COURT: Can take a look at it?

20 MR. RUNYAN: Yes, sir.

21 THE COURT: All right, if you want to ask if he
22 had an attorney before you do that, then we'll get
23 into it.

24 MR. RUNYAN: Okay.

25 MR. HENRY: I object to the NCIC coming in,

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 Judge.

2 THE COURT: I don't think he's putting--

3 MR. RUNYAN: Not putting it in, no.

4 MR. HENRY: Well, you've seen it now.

5 THE COURT: Well, I wanted to see what he was,
6 actually, talking about. I just wanted to make sure
7 he wasn't saying that he pled guilty to a speeding
8 case and that that was the reason he had an attorney
9 before.

10 MR. HENRY: I gotch you.

11 THE COURT: Yeah. But your objection's noted.

12 MR. HENRY: Thank you.

13 BY MR. RUNYAN:

14 Q So, Mr. Jarvis, I apologize for that delay, but.
15 . . So you've had a bench trial before?

16 A Not that I can remember.

17 Q Not that you can remember. So you've never been
18 in a courtroom where you were represented by an attorney
19 on a criminal charge?

20 A That I have, yes.

21 Q You have been, okay. All right, thank you. So
22 in that case you knew -- you hired that attorney; correct?

23 A Yes.

24 Q Okay. I don't have much more here, Mr. Jarvis.
25 I, also, wanted to know, so after you -- after you got

FREDERICK JARVIS-CROSS BY MR. RUNYAN

1 released -- well, after you got put into jail, after your
2 trial on the 14th, did you hire an attorney after that?

3 A Yes.

4 Q Okay. And that attorney represented you at your
5 sentencing hearing?

6 A Yes.

7 Q Okay. Now, did you have a hearing on
8 October 21st, did you go there with the attorney?

9 A I think he showed up, yes.

10 Q Were you there?

11 A I was there.

12 Q Okay. Okay. Did he ask for a jury trial for
13 you?

14 A Yes.

15 Q Okay. And what happened with that?

16 A Motion denied.

17 Q Okay. So then what happened? Did you come back
18 for another sentencing day?

19 A No.

20 Q You didn't come back in November with the same
21 attorney? I think you testify on direct--

22 A Yes, yes.

23 Q And that's where you got where everybody said
24 you got time served; right?

25 A Yes, yes.

FREDERICK JARVIS-EXAMINATION BY THE COURT

1 MR. RUNYAN: Okay, all right. I have nothing
2 further, Your Honor.

3 MR. HENRY: Just a couple of things, Judge.

4 REDIRECT EXAMINATION

5 BY MR. HENRY:

6 Q Fred, when you answered that you hired an
7 attorney, that's not quite true; is it? You, yourself,
8 hired the attorney?

9 A No, I did not.

10 Q Well, when he asked you that, you said you hired
11 the attorney; is that correct?

12 A No.

13 Q Who hired the attorney?

14 A My mother.

15 Q Okay. Where were you when she hired the
16 attorney?

17 A In jail.

18 Q All right. And you were, also, asked if you
19 told The Judge that you didn't do it. Didn't you enter a
20 plea on the record of not guilty?

21 A Yes.

22 Q Okay.

23 MR. HENRY: That's all I have.

24 THE COURT: I have a question.

25 EXAMINATION

FREDERICK JARVIS-EXAMINATION BY THE COURT

1 BY THE COURT:

2 Q Mr. Jarvis, I'm looking here at the transcript,
3 at what point did The Judge tell you you were guilty?
4 Because it's nowhere in the transcript.

5 A The only thing he asked me was how do I plead?

6 And I said, Not guilty.

7 Q When did he tell you that you were guilty? I
8 see where he just says, Go sit in the box. Did he ever
9 tell you that you were guilty of this charge?

10 A Not at that moment.

11 Q When did you find that out?

12 A At a later date.

13 Q After you'd been incarcerated for 10 days?

14 A Yes.

15 THE COURT: Okay. You can step down.

16 MR. HENRY: Call John Mauldin.

17 MR. RUNYAN: Your Honor, we're going to object
18 to this witness.

19 THE COURT: All right.

20 MR. HENRY: Can he come up to the stand first,
21 Judge?

22 Come on, John.

23 THE COURT: Yes.

24 THE CLERK: Mr. Mauldin, please raise your right
25 hand.

JOHN MAULDIN-DIRECT BY MR. HENRY

1 JOHN MAULDIN, after being duly sworn{,}testified
2 as follows:{F}

3 THE CLERK: Thank you, please state your full
4 name for the record.

5 THE WITNESS: John Mauldin.

6 THE CLERK: Thank you.

7 THE WITNESS: And, Your Honor, if I may, I am
8 hearing impaired. So if I can beg your indulgence on
9 that, Your Honor.

10 THE COURT: No problem, thank you, sir.

11 THE WITNESS: I do the best I can to hear.

12 MR. HENRY: You want to object now or testify a
13 little bit?

14 MR. RUNYAN: Testify a little bit.

15 MR. HENRY: All right.

16 I'm going to move closer to John because I know
17 about the hearing situation, Judge.

18 THE COURT: Perfect with me.

19 DIRECT EXAMINATION

20 BY MR. HENRY:

21 Q And, John, I'm going to hand you the exhibit
22 book, okay, in case you need to flip through it at any
23 point. John, have you recently retired?

24 A Well if 2018 is recent, yeah.

25 Q Okay. What did you do for a living before you

JOHN MAULDIN-DIRECT BY MR. HENRY

1 retired?

2 A I was--

3 MR. RUNYAN: Your Honor, I just would like to
4 approach, if we could.

5 THE COURT: Okay.

6 MR. RUNYAN: I'm not objecting right now, but I
7 want to approach on the issue.

8 THE COURT: All right.

9 (WHEREUPON, an off-the-record bench conference
10 was held.)

11 MR. HENRY: You want to put that on the record,
12 Judge, I don't have any problem with it.

13 THE COURT: I'm allowing him to make his
14 objection--

15 MR. HENRY: Okay.

16 THE COURT: -- formally. Sounds like he's going
17 to make that objection.

18 MR. RUNYAN: Your Honor, I'll object right now.
19 We were not aware of this witness, we were not told
20 of this witness. I understand the discovery stuff
21 but, I mean, this is a civil case of nature and
22 surprises are supposed to be, you know, limited. I
23 think this is an unfair witness on top of it. I
24 don't know how he is offered as a expert, I don't
25 know what the nature of his testimony is. I object

JOHN MAULDIN-DIRECT BY MR. HENRY

1 to this witness being called.

2 THE COURT: What's the nature of this witness?

3 MR. HENRY: He is a expert criminal defense
4 lawyer. He has reviewed the transcript and I'm going
5 to ask him questions about the transcript.

6 THE COURT: Okay. I mean, are you going to move
7 that he be made an expert in--

8 MR. HENRY: I don't know that I need to but I
9 certainly will.

10 THE COURT: If he's going to offer opinion
11 testimony you have to.

12 MR. HENRY: So he's well qualified.

13 THE COURT: Let's go to his qualifications and
14 well see and then I'll rule on your objections.

15 MR. RUNYAN: Okay. Your Honor, I do want to
16 note that I just think it's inadmissible, stack of
17 cases, we're going to rely on the case of State v.
18 Green. State v. Green or Green v. State. I already
19 provided this to Mr. Henry. But, basically, Your
20 Honor, I'll just brief from the case. This was a PCR
21 case. And at the end on Page 5, the fifth section of
22 this, the PCR court didn't let a expert testify,
23 admit expert opinion testimony at the trial. Because
24 PCR court found the testimony was not relevant and
25 even if relevant, would not effect The Judge's

JOHN MAULDIN-DIRECT BY MR. HENRY

1 decision. They said, basically, that there was no
2 factual evidence that this witness could offer. And
3 that the testimony was not designed to assist the PCR
4 court to understand certain facts but rather was a
5 legal argument, is why the PCR court should rule, as
6 a matter of law, that trial counsel's actions failed
7 below the acceptable standard of competence.

8 So I think under Green, expert testimony in this
9 case of a criminal defense lawyer is inadmissible.
10 But I would, also, add, Your Honor, that it's not
11 relevant in this case because Mr. Jarvis was pro se.
12 What a defense attorney would do in that situation is
13 irrelevant to this. Mr. Mauldin did not represent
14 him, he has no understanding of the facts outside of
15 the limit trial testimony. And his testimony is not
16 relevant and it's inadmissible.

17 There other thing is, Your Honor, under Rule
18 702, I mean, you're the gatekeeper of the
19 admissibility of evidence. And the first thing, the
20 first thing that we look at under 702, will it assist
21 the trier of fact? And I just don't think that Your
22 Honor needs assistance in criminal defense or proper
23 procedures. So we would say it's not relevant and
24 it's inadmissible.

25 THE COURT: I'm happy to hear from you. I will

JOHN MAULDIN-DIRECT BY MR. HENRY

1 tell you this, the bulk of my practice was criminal
2 defense.

3 MR. HENRY: Good.

4 THE COURT: I don't know if you need this or
5 not. I probably handled three or 4000 DUI cases in
6 my time prior to being on the bench.

7 MR. HENRY: That's good to know.

8 THE COURT: I'm very well versed in that. I
9 don't know what he could add, I'm certainly sure
10 there's things that I could learn. But that being
11 said, why don't we go through his qualifications and
12 let me hear that before -- what do you intend to
13 offer? It is more about the procedure or is this
14 more about--

15 MR. HENRY: It's burden of proof. As I see it,
16 I've got to do two things. I've got to show that
17 there's a Constitutional violation, I think I can do
18 that. And to show that it changed the outcome of the
19 case. And that's what his testimony would be about.
20 If Fred Jarvis had been provided a free lawyer, as he
21 should have been, what would that lawyer have done at
22 that trial to benefit him? That's what he's going to
23 testify to. Now, maybe you know from your
24 experience, about that as well. But they're two huge
25 pieces of evidence that were allowed in this trial,

JOHN MAULDIN-DIRECT BY MR. HENRY

1 that were totally inadmissible. And someone without
2 legal representation, like Fred, would not have known
3 to object. That's what he's here to testify about.

4 THE COURT: Okay. Let's hear his qualifications
5 and then I'll rule on that.

6 MR. HENRY: Yes, sir, yes, sir.

7 BY MR. HENRY:

8 Q So you were a lawyer at one time?

9 A Yes, I was admitted to the South Carolina Bar in
10 1974. And private -- started in the public defender's
11 office for a couple years, been in private practice for 16
12 years. And then in 1992, when Pete Partee retired, he had
13 been the public defender of Greenville County for a number
14 of years, I was -- it was discussed with me whether I
15 would be interested. I said I was and I was appointed the
16 full-time public defender for Greenville County. And that
17 was in 1992.

18 In 2008, the legislature passed the bill
19 regarding the creation of circuit defender offices. I was
20 then appointed the 13th Circuit Public Defender for
21 Greenville and Pickens County. And I maintained that
22 position until my retirement in 2018.

23 Q Okay. During that time when you practiced
24 criminal defense law, did you try all kinds of criminal
25 cases?

JOHN MAULDIN-DIRECT BY MR. HENRY

1 A I tried pretty much all types of cases.

2 Q Including cases in city court?

3 A Had cases in city court; magistrate's court;
4 general sessions, misdemeanors and felonies. And capital
5 cases.

6 Q Death penalty cases?

7 A Yes.

8 Q All right. I know it's impossible to tell how
9 many cases you handle in all those years, but it would be
10 in the hundreds?

11 A It would definitely be in the hundreds.

12 Q And you're familiar with the rules of evidence?

13 A Well, you know, I've been retired for a while so
14 I don't know, exactly, how familiar I am at this point.
15 But I felt like I had appropriate level of familiarity
16 with the court rules.

17 Q Including hearsay?

18 A Yes.

19 Q Okay.

20 MR. HENRY: I'm going to submit that he's
21 qualified to testify as a criminal defense lawyer and
22 a expert.

23 THE COURT: Can we -- I mean, I guess, my
24 concern here is -- Counsel, can we stipulate that
25 there was, obviously, inadmissible hearsay that was

JOHN MAULDIN-DIRECT BY MR. HENRY

1 allowed? I mean, there was no objection but there's,
2 obviously, inadmissible hearsay in that transcript.

3 MR. RUNYAN: I mean, I don't think I can
4 stipulate to that, Your Honor. I mean, those are
5 appealable issues that weren't appealed.

6 THE COURT: I understand that. I'm not saying
7 that it's an appealable issue for PCR practices, I'm
8 just saying, if he's going to have him up here to
9 testify that that's inadmissible hearsay, it's
10 statements made by Mr. Pine, was that his name?
11 Mr. Pine, outside of court --

12 MR. HENRY: Pinto.

13 THE COURT: Pinto.

14 MR. HENRY: Pinto, yeah.

15 THE COURT: Pinto, excuse me. I'm just asking,
16 if we need a witness to say that? This witness on
17 the stand?

18 MR. RUNYAN: I object wholeheartedly because I
19 don't think he can offer an expert opinion based
20 Green, it's inadmissible. So I don't think we need
21 his testimony anyway. But if I can have a moment to
22 confer with counsel?

23 (WHEREUPON, an off-the-record discussion was
24 held between counsel.)

25 THE COURT: Yes.

JOHN MAULDIN-DIRECT BY MR. HENRY

1 MR. RUNYAN: Your Honor, I guess, we could
2 stipulate that the transcript says what the
3 transcript says. And I would leave it to your
4 discretion as to, you know, whether or not it's
5 improper hearsay or not.

6 THE COURT: Well, I mean, I think allowing the
7 officer to testify to what Mr. Pinto told him about
8 where they'd been drinking and everything else, I
9 don't know of any possible exceptions to the hearsay
10 rules on that. Again, we're not here for the appeal,
11 this is for PCR purpose. So for that, I appreciate
12 him being here but I don't know if we necessarily
13 need him for that. I can certainly see the hearsay.

14 MR. HENRY: Well, I've done a redacted version
15 of the transcript.

16 THE COURT: Okay.

17 MR. HENRY: Striking through what I believe to
18 be the hearsay testimony. You want me to submit that
19 and then you can decide that and whether John can--

20 THE COURT: Well, I'm looking at the transcript
21 now, I mean, I can see what's in it.

22 You want to--

23 MR. RUNYAN: Yeah, I would like to see what he's
24 stricken or highlighted. I haven't seen it.

25 MR. HENRY: I haven't offered it yet, that's why

JOHN MAULDIN-DIRECT BY MR. HENRY

1 you haven't seen it. But if The State's going to
2 object and say that there's no hearsay, then I'm
3 going to insist on him testifying. I got another
4 witness testifying too. I understand that you have
5 the background in criminal defense and you see it,
6 too, but I have to make a record.

7 THE COURT: I understand, yeah.

8 MR. HENRY: To show that had there been a lawyer
9 assigned to this case, properly, he would have been
10 there to help Fred do the case and would have
11 objected to the hearsay, that would have made a
12 difference in the outcome. That's only one of our
13 issues. And the other issue is that he didn't know
14 how to subpoena Chris Pinto. Who would have
15 testified differently than what the police officer
16 said in the hearing. So there's two big pieces here.

17 THE COURT: I got you.

18 MR. HENRY: Okay.

19 MR. RUNYAN: Your Honor, I think we stand by our
20 prior arguments. I don't want to beat a dead horse
21 here but I don't think -- he's not admissible as an
22 expert out of Green v. State. I think, you know,
23 we're not going to stipulate that the hearsay was
24 improper. Because we don't know what Mr. Jarvis'
25 strategy was. Mr. Jarvis, maybe he - I don't know

JOHN MAULDIN-DIRECT BY MR. HENRY

1 what his strategy was, nobody knows, it's not in.
2 testimony. All we know is that trial transcript's
3 there and what it says. And we believe it's your
4 discretion to determine whether or not -- whether or
5 not it's hearsay. And, you know, also, we stand by
6 our original arguments that, you know, this is a
7 appeal issue.

8 THE COURT: Well, that's a completely different
9 issue. But as far as this, if I need to make a
10 finding that it's hearsay, it's hearsay. I mean, no
11 he didn't object to it but it is hearsay.

12 MR. HENRY: Okay. But we need to identify what
13 the it is. I don't want to sound like Bill Clinton
14 but.

15 THE COURT: I'm referring to anything that he
16 has said that Chris Pinto has told him.

17 MR. HENRY: How about the testimony he gave
18 about the jail people who, also, were not present to
19 testify?

20 While in the jail, medical staff checked Jarvis'
21 blood sugar. All of that's hearsay too, in my view.

22 THE COURT: I thought that was EMS had checked
23 the blood sugar.

24 MR. HENRY: Well, he says, While in jail medical
25 staff.

JOHN MAULDIN-DIRECT BY MR. HENRY

1 I'm assuming that is medical staff at the jail.

2 THE COURT: I was reading about EMS saying it
3 was 333.

4 MR. HENRY: When you take the hearsay out,
5 there's not a whole lot left. Of impact.

6 Can I have this marked? This redacted version
7 marked and give a copy to The State?

8 THE COURT: That would be what, Applicant's No.?

9 THE COURT REPORTER: Twelve --

10 MR. HENRY: Twelve.

11 THE COURT: Twelve, okay.

12 (WHEREUPON, Applicant's Exhibit No. 12 was
13 marked for identification only.)

14 MR. RUNYAN: So the transcript was already
15 entered. This is just a separate -- another entry,
16 is that what I'm seeing?

17 MR. HENRY: That's right.

18 MR. RUNYAN: He -- I would just add, I don't
19 think the fairness of the trial is what's at issue
20 here. The issue is whether or not he was afforded
21 his right to an attorney. So again, you know, we'll
22 maintain all of our objections.

23 THE COURT: All right. And I don't know what
24 all you've redacted.

25 MR. HENRY: Right, I know. I'm getting ready to

JOHN MAULDIN-DIRECT BY MR. HENRY

1 give it to you.

2 THE COURT: Okay.

3 MR. RUNYAN: You say redacted, do you have -- do
4 you mean highlighted?

5 MR. HENRY: Crossed out.

6 MR. RUNYAN: Crossed out? Because I have
7 underline.

8 MR. HENRY: Is yours underlined?

9 MR. RUNYAN: Yeah.

10 MR. HENRY: Well, that's fine. Crossed out. I
11 wanted to be able to read it.

12 MR. RUNYAN: Right.

13 MR. HENRY: Could be more hearsay I missed,
14 Judge.

15 THE COURT: And, again, counsel, your objection
16 to this is?

17 MR. RUNYAN: Well, no, Your Honor, like I said,
18 we leave it to your discretion. I don't object to
19 this document. We leave it to your discretion to
20 determine whether or not it's admissible hearsay. I
21 just don't think -- we object to the testimony by,
22 you know, an expert which we think is inadmissible.

23 THE COURT: I don't believe I need an expert to
24 tell me that what you marked down is hearsay.

25 MR. HENRY: All right, sir.

JOHN MAULDIN-DIRECT BY MR. HENRY

1 THE COURT: I tend to agree with you.

2 MR. HENRY: Tend to? I just, again, I want to
3 make sure that we're talking about the same thing.
4 Because part of my argument, I think, you know this
5 already, part of my argument is that Fred was deer in
6 the headlights at this hearing. And he went there to
7 get a lawyer, which is, also, what that form that he
8 was talking about said, went to the city court.
9 Didn't get a lawyer, didn't get a jury trial, wasn't
10 told anything by The Judge, which he should have
11 done. So if those are violations of the
12 Constitution, he's entitled on that part of it, I
13 still have to show so what, what difference did it
14 make? And that's why the hearsay is so important.

15 THE COURT: Okay.

16 MR. HENRY: As well as the missing testimony
17 from Chris Pinto.

18 THE COURT: All right. I'm going to allow you
19 to solicit testimony from him briefly, I don't think
20 we need to --

21 MR. HENRY: I'll be brief.

22 THE COURT: -- extensively into it.

23 MR. HENRY: Can I use the document?

24 THE COURT: You can.

25 And your objection is noted, counsel.

JOHN MAULDIN-DIRECT BY MR. HENRY

1 MR. RUNYAN: Thank you, Your Honor.

2 BY MR. HENRY:

3 Q John, this is what we're calling Exhibit No. 12,
4 the redacted version. Will you take a quick look at that?
5 I know you looked at the transcript itself.

6 A If this is a copy of the transcript that I was
7 provided to review.

8 Q It is.

9 A Okay. Then I can recognize it.

10 Q Okay. And have you reviewed it for possible
11 hearsay objections that could have been made that were not
12 made?

13 A Yes. And the ones that have been redacted,
14 clearly appear to be inadmissible had an objection been
15 made. I would say on Page 2, I think it is relevant on
16 Line 4, that the officer testified that the passenger
17 identified himself as Christopher Pinto, who is not here
18 today. And that would indicate that The Court was,
19 actually, on notice that this person was not going to
20 testify. And therefore, the hearsay becomes very relevant
21 of -- the objection for hearsay becomes very relevant.

22 On the third page regarding referencing to
23 what he was told by the medical staff, while he was at the
24 jail, I mean, that is just -- that's absolutely hearsay.
25 It references to his blood sugar in a couple of these

JOHN MAULDIN-CROSS BY MR. RUNYAN

1 places. And the transcript, also, the officer wouldn't
2 have had any personal knowledge of that. So he has to
3 have gleaned that from something that he was told by that
4 medical staff. And I would think that a lawyer would have
5 been objecting if that medical staff was not present to
6 testify.

7 Q Anything else about the transcript that drew
8 your attention?

9 A Not regarding the hearsay questions. Those are
10 the ones that I identified the reference to the passenger
11 and that The Court was aware was not present. And
12 reference to statements gleaned from the medical staff at
13 the jail. Also, would have been very, obviously, very
14 damaging to The Defendant but they were inadmissible
15 hearsay statements.

16 Q And from the transcript there's no indication
17 that The Judge objected either is there?

18 A No. I see no reference to that.

19 MR. HENRY: That's all I have for John Mauldin.

20 THE COURT: All right, counsel.

21 MR. RUNYAN: Just a couple questions.

22 CROSS-EXAMINATION

23 BY MR. RUNYAN:

24 Q Did you represent Mr. Jarvis? Did you represent
25 Mr. Jarvis?

JOHN MAULDIN-CROSS BY MR. RUNYAN

1 A No.

2 Q So you weren't there on October the 14th during
3 trial?

4 A No.

5 Q You, other than that transcript, you have no
6 idea about the facts of this case?

7 A I was given the transcript and, of course, I had
8 a question or two about what he was charged with and so
9 forth before I read it. And Mr. Henry did share that with
10 me.

11 Q Does a person have to or does an attorney or --
12 have to show prejudice in a deprivation of counsel case?

13 A Well, if you talking about ineffective
14 assistance case?

15 Q Well depravation of counsel, yeah ineffective
16 assistance.

17 A Yeah, the second prong would have, potentially,
18 be that it would have, potentially, changed the outcome of
19 the case.

20 Q Right. Now, I'm talking about talk -- we're
21 talking about he was not given an attorney. He's saying
22 he did not have a right to an attorney or he was not given
23 an attorney. If -- that's a deprivation of counsel;
24 right?

25 A Yes.

JOHN MAULDIN-CROSS BY MR. RUNYAN

1 Q You have to show prejudice in that?

2 A If you're asking me if a defendant would have to
3 show prejudice because his Constitutional right to counsel
4 was deprived, the answer is no.

5 MR. RUNYAN: Thank you, no more questions.

6 MR. HENRY: No redirect.

7 THE COURT: All right, you can step down, thank
8 you.

9 MR. HENRY: Just leave the book, John.

10 I ask that this witness be excused.

11 MR. RUNYAN: No objection.

12 THE COURT: All right, you're excused.

13 THE WITNESS: Thank you, Judge.

14 MR. HENRY: Call Zack Klebe.

15 THE CLERK: Mr. Klebe, please place your left on
16 the Bible, raise your right hand.

17 ZACK KLEBE, after being duly sworn{,} testified
18 as follows:{F}

19 THE CLERK: Thank you, you may be seated.

20 Please state your full name for the record.

21 THE WITNESS: My full name is Zachary Klebe.

22 THE COURT REPORTER: Spell your last name,
23 please.

24 THE WITNESS: K-L-E-B-E.

25 THE COURT: Yes, sir.

ZACK KLEBE-DIRECT BY MR. HENRY

1 MR. HENRY: Thank you, Judge.

2 DIRECT EXAMINATION

3 BY MR. HENRY:

4 Q Can I call you Zack?

5 A Yes, sir, that's what I go by.

6 Q And have I always called you Zack?

7 A Yes, sir.

8 Q Tell The Court what you do?

9 A My title is criminal justice coordinator but,
10 basically, what I do for all of Greenville County in
11 criminal cases, magistrate court, municipal court, general
12 sessions, I do the screening and determination of
13 indigency for criminal defendants to see if they can get
14 court appointed counsel.

15 Q So if someone is possibly indigent, you
16 determine whether they are, in fact?

17 A Yes, sir.

18 MR. RUNYAN: Your Honor, again, we're going to
19 object to this witness. We were not notified of this
20 witness. We're not given any -- this is a surprise
21 witness. I don't even know what the nature of his
22 testimony is, I don't know what he said, I don't know
23 if he's offering him as a expert, I know nothing
24 about this witness.

25 THE COURT: Is he going to be offered as a

ZACK KLEBE-DIRECT BY MR. HENRY

1 expert or is he a fact witness?

2 MR. HENRY: Just a process, appointment of
3 counsel.

4 THE COURT: All right.

5 MR. HENRY: And how it relates to this case.

6 THE COURT: All right, I'm going to overrule
7 your objection, it's noted for the record, thank you.

8 MR. RUNYAN: Thank you.

9 BY MR. HENRY:

10 Q Okay, Zack, so is there a -- back in 2021, was
11 there a difference in appointing counsel in magistrate
12 cases versus city court cases like this one?

13 A Yes, there was difference.

14 Q Can you explain that?

15 A In 2021, the magistrates in Greenville County
16 were afforded the use of the public defender's office,
17 their attorneys would represent people who were determined
18 indigent. In the municipal court cases, they were not
19 allowed to use court appointed -- the public defender's
20 office unless they reached financial agreements with the
21 public defender's office for representation. And
22 Greenville city had not reached any kind of an agreement
23 with the circuit public defender's office. Therefore,
24 anybody that I screened, that I found indigent, I would
25 refer them back to city court and they would come up with

ZACK KLEBE-DIRECT BY MR. HENRY

1 an attorney for that individual.

2 Q All right. So for county magistrate cases, you
3 would screen, if they were approved they went straight to
4 the public defender's office?

5 A I appointed them directly to the public
6 defender's office.

7 Q And for city court cases back then, you would
8 send them back to city court for them to assign a city
9 court lawyer?

10 A Yes, sir.

11 Q If they did that?

12 A Yes, sir.

13 Q Okay. So that would be the case back in '21
14 when Fred Jarvis had his case?

15 A Yes, sir.

16 Q So the form -- you're familiar with Form IV?

17 A Yes, sir.

18 Q What's Form IV?

19 A Form IV is a form actually that we created in
20 our office that the Magistrate and Municipal Court Judges
21 would fill out. It's, basically, is, basically, a court
22 order that has the charges, The Judge's signature, a place
23 for me to sign once I screened the individual, that is the
24 appointment sheet or appointment order that we would use
25 to make the assignment for an attorney.

ZACK KLEBE-DIRECT BY MR. HENRY

1 Q Until you sign off on it, the person does not
2 get a free lawyer?

3 A That's correct.

4 Q Okay. So there's two parts that The Judge
5 signs, then you sign?

6 A Yes, sir. I sign right underearth his
7 signature.

8 Q Okay. Did I ask you to, in this case, to look
9 in your files to find out if you had any documents from
10 the city court regarding Fred Jarvis appointment of
11 counsel?

12 A You did.

13 Q What did you find?

14 A We had no physical record of having appointed or
15 screened Mr. Jarvis.

16 Q Okay. All right. So as far as appointment of
17 counsel is concerned in city court cases, it is correct to
18 say that the defendant, who wants a free lawyer, has to go
19 to city court, initially, before they can get assigned?

20 A Yes. They've got to request that Form IV. My
21 basic jurisdiction is general sessions court.

22 Q Right.

23 A But I can screen for the smaller courts, lower
24 courts, once that Form IV has been executed by either the
25 Magistrate Judge or Municipal Court Judge.

ZACK KLEBE-DIRECT BY MR. HENRY

1 Q Okay. In this case you got nothing back from
2 the city court about Fred Jarvis at all?

3 A Correct.

4 Q Okay. Now, if you would, flip to Exhibit No.
5 10. The book's probably easier.

6 A Okay.

7 Q You got your own set, too, so.

8 A This Form IV is dated October 21st?

9 Q Yes, sir.

10 A Yes, sir, I'm at it.

11 Q Okay. Is that a Form IV?

12 A That is a Form IV, yes, sir.

13 Q Okay. Is that a Form IV for Fred Jarvis?

14 A Yes, sir.

15 Q Okay. Now, the Form IV for Fred Jarvis has been
16 apparently signed by The Judge?

17 A Yes, sir.

18 Q Do you recognize that as Judge Hawley's
19 signature from experience?

20 A I do, yes, sir.

21 Q And the part where it says, Criminal justice
22 coordinator, that would be you?

23 A That's where I would sign once I've done my
24 process, yes, sir.

25 Q And the form hasn't been changed to call you by

ZACK KLEBE-DIRECT BY MR. HENRY

1 your correct name, has it?

2 A No.

3 Q But the same form's been used since way back on
4 appointment of counsel?

5 A Yes, sir.

6 Q So if you had received a Form IV from city court
7 back say, October 10th -- 2nd through 14th on Fred Jarvis,
8 you would have screened him and then signing off if he's
9 qualified?

10 A That's correct.

11 Q Okay. This form that was dated, can you tell
12 the date on there?

13 A Yeah -- well, actually, the only date that's on
14 here is his court date of 10-21-2021.

15 Q Okay. How about the date just above the
16 signature?

17 A Oh, I see it, yes, sir, I see it. I'm sorry.
18 That's dated the 18th of October.

19 Q Okay.

20 A 2021.

21 Q So if he was, in fact, as the documents show, I
22 think, convicted October 14th, do you have any clue as to
23 why an appointment sheet would have been filled out four
24 days after he was convicted?

25 A No. And in my process, once this form comes to

ZACK KLEBE-DIRECT BY MR. HENRY

1 me, especially if someone is in detention, I would look
2 into the circumstances of his detention and if he's booked
3 into the detention center and sentenced, then there would
4 be no need for me to further execute this form.

5 Q Okay. So that's a hypothetical. If you had
6 gotten this form?

7 A Right. Right.

8 Q All right. Now, are you familiar, if you look
9 at Exhibit No. 5, this will be the checklist for
10 Magistrate and Municipal Judges?

11 A Yes, sir.

12 Q And you're familiar with them -- the form
13 telling people that they have a right to a jury trial,
14 right to counsel, you're familiar with that part of it?

15 A Yes, sir.

16 Q With respect to jury trials, are you aware of
17 anything that tells them how to do that?

18 A How to request one?

19 Q Right.

20 A No, sir.

21 Q Okay. And with respect to the right to counsel
22 part, other than going to city court, which he did on the
23 14th, is there any other instruction as to how to get a
24 free lawyer?

25 A Well, there is some verbiage down here that

ZACK KLEBE-CROSS BY MR. RUNYAN

1 talks about going to 426 North Main Street Greenville, for
2 indigency screening and being responsible for the
3 statutory \$40 fee, but that's not correct.

4 Q Okay.

5 A Because I am the lone screener for Greenville
6 County criminal cases in any court.

7 Q So sending someone like Fred to city court for
8 screening would be a false message?

9 A It would be a dead end for him, yes, sir.

10 Q Because you would do the screening?

11 A I am the screener.

12 Q If you got the Form IV?

13 A Yes, sir.

14 Q Signing by The Judge?

15 A Yes, sir.

16 Q Which did not happen in this case?

17 A It did not.

18 MR. HENRY: That's all I have for this witness,
19 Judge.

20 THE COURT: Counsel.

21 MR. RUNYAN: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. RUNYAN:

24 Q So in Greenville County, at the court level, if
25 somebody is -- if somebody can pay their bond or released

ZACK KLEBE-CROSS BY MR. RUNYAN

1 on personal recognizance bond, they don't need to be given
2 a Form IV, isn't that correct?

3 A They -- they don't have to be given one, no.

4 Q That's right. But if they're detained, though,
5 if they can't make bond or it's not a personal
6 recognizance bond, they can't make bond and they're put in
7 jail, like you were just talking about, then the Form IV
8 would apply; correct?

9 A That's correct.

10 Q Okay. Now, on this Exhibit 5 you guys were just
11 talking about, you say this is all wrong. So this form is
12 all wrong?

13 A I didn't say all wrong. I said the verbiage
14 about going to actual the city court address location for
15 screening, is not correct.

16 Q Okay. But all this says is he was informed of
17 his right to counsel, is that right? On B right there;
18 right?

19 A It does. But I'm talking about the verbiage in
20 C.

21 Q Okay.

22 The Defendant was informed orally and
23 provided a copy of this form and advising him of his right
24 to obtain court appointed counsel, if indigent. Are you
25 saying -- well, scratch that. This form that the county

ZACK KLEBE-REDIRECT BY MR. HENRY

1 gave out, this was for a personal recognizance bond, so it
2 was not required for Mr. Jarvis to get a Form IV, is that
3 correct?

4 A At that time, no.

5 Q At that time. And then when he went into --
6 once he was convicted and he went to jail and he was
7 detained, there's a Form IV, you guys just talked about
8 it; right? On October 18th, signed by Judge Hawley?

9 A Right. But that was never -- that was never
10 given to our office.

11 Q If it is possible it's because Mr. Jarvis
12 retained counsel?

13 A I have no idea.

14 MR. RUNYAN: No further questions, Your Honor.

15 THE COURT: Any redirect?

16 MR. HENRY: Just a couple of things, Judge.

17 REDIRECT EXAMINATION

18 BY MR. HENRY:

19 Q Someone who is detained, then released on bond,
20 can still qualify to get a free lawyer using Form IV?

21 A Right. They can request that Form IV, even from
22 the street, as we say.

23 Q Okay. All right. And that checklist that sent
24 Fred Jarvis to city court for screening, that one you said
25 was all wrong, that would tend to deny him the right to

ZACK KLEBE-REDIRECT BY MR. HENRY

1 get a free lawyer; wouldn't it?

2 A Well, it would--

3 MR. RUNYAN: Objection, speculation, Your Honor.

4 THE COURT: I'm going to allow him to answer it.

5 THE WITNESS: It would -- it would circumvent
6 the process.

7 BY MR. HENRY:

8 Q What would -- what would a defendant like Fred,
9 reading that, where would he go besides going to city
10 court on October 14th for his case?

11 MR. RUNYAN: I object, Judge, speculation. This
12 is not a expert witness, this is a lay witness, he
13 can't offer opinion on what somebody--

14 THE COURT: Well, he's got to change the
15 verbiage of his question. Change it to where would
16 he go? I think he can answer that as to where would
17 he go to get screened.

18 MR. HENRY: Based on the form.

19 THE COURT: Am I correct with that?

20 MR. HENRY: You are, yeah. Based on the form.

21 THE WITNESS: Yeah, based on the form, he would
22 be going to the wrong location.

23 BY MR. HENRY:

24 Q Okay. All right. Because he had to go to you
25 to get screened?

CHRISTOPHER PINTO-DIRECT BY MR. HENRY

1 right there.

2 A I see the form that was done but one was never
3 sent to my office.

4 Q You never signed it?

5 A Right.

6 MR. RUNYAN: Okay, no more questions, Your
7 Honor.

8 THE COURT: All right, you may step down.

9 MR. HENRY: Thank you.

10 THE WITNESS: Thank you.

11 MR. HENRY: Call Chris Pinto.

12 May this witness be released, Judge?

13 THE COURT: Mr. Runyan, any objection to this
14 witness being released?

15 MR. RUNYAN: No, no objection, Judge.

16 THE CLERK: Mr. Pinto, please place your left
17 hand on the Bible, raise your right hand.

18 CHRIS PINTO, after being duly sworn(,) testified
19 as follows:{F}

20 THE CLERK: Thank you, you may be seated. And
21 please state your full name for the record.

22 THE WITNESS: Christopher Pinto.

23 DIRECT EXAMINATION

24 BY MR. HENRY:

25 Q Spell your last name.

CHRISTOPHER PINTO-DIRECT BY MR. HENRY

1 A P-I-N-T-O.

2 Q Okay. Can I call you Chris?

3 A Yes.

4 Q Chris, you weren't involved in the trial of the
5 case at all; were you?

6 A No, sir.

7 Q Were you the passenger in the car when Fred was
8 stopped?

9 A I was.

10 MR. RUNYAN: Your Honor, again, we object to
11 this witness. I would say this, Your Honor, this is
12 the third time that we've been given a surprise
13 witness and no knowledge of this witness. I know
14 Mr. Henry sent me subpoenas of people he was going to
15 call and none of these people were on there. Again,
16 we object to no notice of this. And also, this is
17 Chris Pinto, who was -- he's going to only testify to
18 facts, Your Honor.

19 And 17 -- Section 17-27-20, you know, says, That
20 this section should not be construed to collateral
21 attack on the ground that the evidence was
22 insufficient to support a conviction.

23 That's all this witness is going to testify.
24 We've already gone over the hearsay, you have that in
25 there. This is a definite attack on the facts of

CHRISTOPHER PINTO-DIRECT BY MR. HENRY

1 this case, we would object to this witness'
2 testimony, Your Honor.

3 MR. HENRY: Well, that's not what it is. First
4 of all, on the subpoena issue, I provided subpoenas,
5 copies, under the rule. Whenever I subpoena
6 somebody, I send a copy of the subpoena to the other
7 side, as required. I don't have to notify them of
8 who I'm calling. Unless there's a discovery order
9 asking for the list of witnesses. I didn't ask them
10 from their witnesses and they haven't asked me. So I
11 sent them three subpoenas of the people who needed
12 subpoenas. And the others did not need subpoenas,
13 they don't need to be notified of that on the other
14 side.

15 Secondly, once again, I'm trying to demonstrate
16 what would have happened had Fred's rights been
17 protected both at a jury trial and the right to
18 counsel. Had he had a lawyer and knew how to do a
19 subpoena, he would have been here. This witness
20 would have been testifying for him. Plus, I'm hoping
21 that his testimony will directly contradict the
22 inadmissible hearsay evidence that the officer
23 presented to The Court. Which should be of some
24 concern to The Court. When a officer gets on the
25 stand, misrepresents the evidence in order to get a

CHRISTOPHER PINTO-DIRECT BY MR. HENRY

1 conviction. And that's what he's here to testify to.

2 THE COURT: Well, that's not really a PCR issue
3 on that. If you want to question him about the fact
4 that he wasn't subpoenaed and he may have appeared if
5 he had been subpoenaed properly, I'm fine with that.
6 But getting into the actual facts of it, I don't
7 think that's proper.

8 MR. HENRY: And I'm not trying to argue against
9 your ruling, but if I can't show what he would have
10 testified to, that goes to right of counsel. Fred
11 Jarvis was, I submit, clueless about his case. He
12 didn't know how to subpoena a witness. He didn't
13 know about hearsay evidence. He didn't know he could
14 have made Chris come to testify. But now we have the
15 proof today of what Chris would have said had he been
16 called to testify, if Fred had a lawyer representing
17 him. That's why I think it's relevant. Obviously,
18 your ruling--

19 THE COURT: No, as far as that, for PCR
20 purposes, I don't think it's relevant as to what he
21 would testify. I think it may be relevant, the fact
22 that he was not subpoenaed to testify. And I've
23 already indicated that, I believe, what the officer
24 stated on the record, is inadmissible hearsay. So I
25 don't think we need to necessarily get into that

CHRISTOPHER PINTO-DIRECT BY MR. HENRY

1 anymore.

2 MR. HENRY: Okay. Just so we're clear, not only
3 was it inadmissible, it was a lie. That's what I was
4 trying to show.

5 THE COURT: Well, I don't know that -- that
6 doesn't really matter to me, at this point --

7 MR. HENRY: Okay, that's fine --

8 THE COURT: -- as far as PCR.

9 MR. HENRY: Okay. All right.

10 THE COURT: It's just a matter of it is hearsay.
11 I did allow you to have a witness testify that they
12 would have objected to that hearsay. So I think
13 we're covered as far as that.

14 MR. HENRY: All right, sir.

15 THE COURT: Thank you.

16 BY MR. HENRY:

17 Q Chris, I guess, I can -- I'm limited here a
18 little bit here but were you prepared, if you had been
19 subpoenaed to testify on Fred's behalf?

20 A I would have.

21 Q Okay. And were you subpoenaed by the city to
22 come and testify as the passenger in the car when he was
23 stopped for the DUI?

24 A No, sir.

25 MR. HENRY: Is that my limitation, Judge, at

CHRISTOPHER PINTO-CROSS BY MR. RUNYAN

1 A No, sir.

2 Q Would you have gone with him?

3 A I would have.

4 MR. RUNYAN: No questions, Your Honor.

5 THE COURT: All right, anything?

6 MR. HENRY: Nothing further from this witness,
7 Judge.

8 THE COURT: Thank you, Mr. Pinto, you can step
9 down.

10 All right, Mr. Henry.

11 MR. HENRY: That's the end of our case.

12 THE COURT: All right, State.

13 MR. RUNYAN: Nothing from The State, Your Honor.

14 THE COURT: Final arguments?

15 CLOSING STATEMENT

16 MR. HENRY: I'm assuming you had a chance to go
17 through the documents, Judge. One question you asked
18 about whether The Judge found him guilty or not, he
19 did because he sent him to the jail with a conviction
20 written on the document.

21 THE COURT: Nowhere in the record does ever say,
22 I find that you're guilty.

23 Just says, Go sit in the box.

24 MR. HENRY: Well, he definitely communicated
25 that to the detention center, because on the

1 documents I submitted in the package. I don't know
2 that that matters except maybe it helps us some.

3 As far as our arguments, this is a case where
4 The Judge is supposed to directly communicate with
5 The Defendant about his rights. His right to a jury
6 trial, his right to counsel. Had he done that, Fred
7 would have jumped on the opportunity, a Form IV would
8 have been filled out that day, he would have gotten
9 screened by Zack Klebe for indigent defense and had a
10 lawyer and we wouldn't be here. The impact of this
11 hearsay evidence and the evidence of his potential
12 witness is really staggering. If you read that bench
13 trial transcript, it's pretty shocking.

14 THE COURT: I've read it.

15 MR. HENRY: And I would ask The Court to set
16 this aside. I don't think they'll even retry this
17 case. But I think he's entitled to a new trial.

18 THE COURT: Counsel.

19 CLOSING STATEMENT

20 MR. RUNYAN: Your Honor, the question is whether
21 or not Mr. Jarvis was deprived a right to an
22 attorney. I think the testimony has shown, not
23 this -- Exhibit 5, I think, is most important. Is
24 Mr. Jarvis was released on a personal recognizance
25 bond. He was not required -- there was no

1 requirement for him to receive a Form IV, at that
2 time. He initialed, and on the stand told you, that
3 he understood these rights, as set forth in Exhibit
4 5. That he knew the nature of the charges against
5 him, that he knew he had a right to counsel and a
6 right to appointed counsel. And he was given
7 information of where to go. I know there's testimony
8 that this was improper or wrong location. But as the
9 witness testified, he said if he had gone down there
10 and asked for a Form IV, he would have been given
11 one. He didn't do that.

12 And there's some talk about after he got
13 detained, was he given a Form IV and he was. But
14 there's testimony, as Mr. Jarvis said, he had an
15 attorney. You don't need an indigent attorney, you
16 don't need an appointed counsel. He had hired, or
17 his mother had hired, an attorney for him for
18 sentencing. So he was represented.

19 I go back to the McLauren case I gave Your
20 Honor. These factors that, you know, can't
21 substitute for Faretta Warning or the absence of one.
22 And kind of go through the ones the McLauren court
23 thought that -- the background of McLauren is
24 understanding the legal system, his legal rights, the
25 nature of the charge, language used at trial. They

1 found that he had done a waiver of his right. And I
2 think The State's established that Mr. Jarvis had a
3 history, he's had contact with the legal system. In
4 fact, he admitted that he had a previous bench trial
5 where he had an attorney.

6 He did have some contact with the legal fund or
7 legal services division that he frequently called
8 Legal Shield, that he had talked to. And he sought
9 out an attorney for his sentencing. There was
10 nothing stopping Mr. Jarvis between October 2nd and
11 the 14th of seeking out and getting counsel. Or
12 seeking out the court for an appointment of
13 indigency.

14 I think he was 30 years old, Your Honor. He was
15 a senior at USC Upstate. He was aware of the nature
16 of the charges, he had a previous legal background.
17 I really don't believe, don't think it's credible. I
18 think he knew why he was going there that day. It's
19 clear that the trial was there. It's clear that he
20 did nothing to defend himself.

21 And, you know, when it comes to our rights, Your
22 Honor, we can waive them. I don't have to own a gun
23 but if I choose not to own a gun, I'm not being
24 deprived of my right to own a gun. Mr. Jarvis knew
25 that he needed an attorney, he's had attorneys in the

1 past, he had contact with the legal system. He was
2 in college, graduate from high school, he had the
3 means. He just didn't do it. He didn't exercise his
4 right. And I know they're dangerous but, I think, he
5 clearly understood what his rights were and that he
6 waived his right to counsel.

7 The rest of the things, Your Honor, we stand by.
8 You know, the transcript was it is what it is about
9 the hearsay. But again, these are all -- those are
10 all issues on appeal. And we submit, again, that
11 they're not ripe for this court. And we'd ask you to
12 deny the PCR application.

13 MR. HENRY: Can I say one thing?

14 THE COURT: Yes.

15 MR. HENRY: In response to McLauren. McLauren
16 doesn't apply in this case. McLauren -- he was a
17 voluntary pro se defendant. My client was not
18 voluntary in any stretch of the imagination. And the
19 language in McLauren, that would apply to my client,
20 in his context was, it's mandatory for The Judge to
21 notify the defendant of his right to a jury trial,
22 his right to counsel and to warn him about Faretta.
23 Face-to-face. The transcript speaks for itself, he
24 never did any of those things. As a result he got
25 railroaded.

1 MR. RUNYAN: Your Honor, again, I think McLauren
2 does apply. I mean, Mr. Jarvis knew of these
3 charges. He knew he needed an attorney, he's had
4 attorneys in the past, he had trials in the past. I
5 think this is a way to try to get around a DUI right
6 now. And, again, I just can't get past the fact that
7 he hired an attorney. I mean, he did for this case.
8 It was after he had been convicted but he hired an
9 attorney. He would have done that -- he could have
10 called his mom, he's done that before.

11 THE COURT: Wouldn't that be indicative that he
12 wanted an attorney, though?

13 MR. RUNYAN: I think it would be indicative that
14 he wanted an attorney, yes. But he made no effort to
15 obtain an attorney prior to his trial. He knew when
16 the trial was, he knew that he needed representation.
17 He affirmed that he knew he had a right. And he
18 didn't exercise it, Your Honor.

19 THE COURT: All right.

20 MR. HENRY: I hate to do it.

21 THE COURT: Last word.

22 MR. HENRY: Last word. McLauren, also,
23 factually, The Judge appointed standby counsel from
24 the public defender's office in that case to sit with
25 the defendant during his trial.

1 THE COURT: Thank you.

2 MR. HENRY: Okay.

3 THE COURT: What I'm going to do is I'm going to
4 take this under advisement. I'll take a look and
5 read McLauren, I certainly haven't had a chance to
6 read it while I'm sitting here. But I'll have
7 something to you, probably, first of next week or so.

8 MR. HENRY: Thank you, Judge.

9 THE COURT: Thank you.

10 MR. RUNYAN: Thank you, Your Honor.

11 (WHEREUPON, the proceedings were concluded.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 16th day of May, 2024.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 14, 2024

April P. Herron

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Frederick Jarvis,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE THIRTEENTH JUDICIAL CIRCUIT

) Case No.: 2022-CP-23-01152

) **JUDICIAL ORDER**

2024 MAY 27 11:53
CLERK OF COURT

THIS MATTER is before the Court by way of an application for post-conviction relief. A hearing was held on May 16, 2024 before Circuit Judge B. Alex Hyman. The Applicant was present and represented by Stephen Henry, Esq., and the State was represented by Assistant Attorney General Christopher Runyan.

The Applicant has alleged in his application that he was denied appointed counsel, was denied a jury trial, was not advised of the dangers of proceeding without a lawyer, was not informed by the court of his right to have a jury trial, was convicted with inadmissible hearsay evidence, was not offered a chance to cross-examine the sole witness for the city, a police officer, was not told that he could tell his version of events, and was not informed of his right to appeal.

FINDINGS OF FACT

The application challenges the Applicant's October 14, 2021 conviction for Driving Under the Influence First Offense. The Applicant was tried before the Honorable Mathew R. Hawley, Chief Judge of the Greenville Municipal Court without a jury by way of a bench trial in which the Applicant was present without counsel. Officer Aaron Bowles testified for the City of Greenville in support of the charge. The Applicant was convicted of the charge on that date and

taken to jail pending sentencing, which occurred on October 21, 2021. At the time of sentencing, an attorney hired by the Applicant's mother represented the Applicant. The Applicant was sentenced to time served and released from custody on October 21, 2021. The Applicant did not file a direct appeal from his conviction or sentence, and was not specifically notified of his right to appeal that conviction.

There is a transcript of the bench trial that was offered by the Applicant as an exhibit, but no record of the sentencing hearing was offered by either side. According to the Applicant and the record developed during the hearing, after his arrest on October 2, 2021, he was given a ticket that included a hearing date of October 14, 2021. The Applicant testified, and the record reflects, that the trial judge did not discuss the Applicant's right to a jury trial or his eligibility to have an appointed lawyer. The Applicant testified that he was unemployed at the time of his arrest and his court date. The Applicant appeared at the hearing prepared to ask for a continuance in order to find a lawyer to represent him. The plan to request a continuance was based upon information the Applicant received from a group called Legal Shield. According to the Applicant, Legal Shield did not represent him as his lawyer and would only potentially have done so if his case was postponed. No lawyer made an appearance for the Applicant through the city court or otherwise. The Applicant testified that he wanted time in order to "...have some type of defense." He further testified that he did not realize he was having a bench trial and thought that the officer was merely stating the details of his charges, rather than testifying in a trial. Furthermore, at the conclusion of the bench trial, the trial judge told the Applicant, "You just had a bench trial." After the Applicant was convicted, the city judge completed a Form IV but did not send the form to the Office of Indigent Defense for financial screening. It appears from this evidence that if the trial judge had raised the issue of a free lawyer for the Applicant,

the Applicant would have been screened and assigned a lawyer. The Applicant presented Zach Klebe, the Criminal Justice Coordinator with the Office of Indigent Defense in Greenville, who testified that the city court never sent a Form IV to his office for the Applicant and, therefore, the Applicant was never screened for a free lawyer.

The City was represented at the bench trial by Officer Bowles, the arresting officer, and not by a prosecuting attorney. During the officer's testimony, he repeatedly offered inadmissible hearsay evidence including a statement allegedly made by the Applicant's passenger, Christopher Pinto. Mr. Pinto was not present for the bench trial and the officer's representations to the city court judge about what Mr. Pinto allegedly told him was inadmissible hearsay. The Pinto "statement" was also extremely damaging in the Applicant's driving under the influence trial since, per the officer, Pinto said that he and the Applicant had been drinking all day. The officer further offered hearsay evidence from EMS personnel and jail staff concerning the Applicant's blood levels, diabetic ketoacidosis, and a conclusion that the Applicant's condition after his arrest was more consistent with the consumption of alcohol than with a diabetic reaction. Again, these statements were made in the absence of the EMS or jail personnel witnesses and absent any reports on the Applicant's condition or test results. Mr. John Mauldin, longtime Greenville County criminal defense lawyer and former Thirteenth Circuit Public Defender, testified on behalf of the Applicant. Mr. Mauldin reviewed the bench trial transcript and testified that the officer's statements from the passenger, EMS, and jail personnel were inadmissible hearsay. Further, the Court reached the same conclusions on the record as to the inadmissible hearsay testimony by Officer Bowles.

The bench trial record is clear that the trial judge did not address the Applicant's right to counsel or his right to a jury trial. There was no waiver of either of those rights on the record.

CONCLUSIONS OF LAW

After review and consideration of the testimony presented at the evidentiary hearing, and review of the record and arguments of counsel, this Court finds that Applicant is entitled to a belated direct appeal from his conviction to seek review of the issues arising from his bench trial pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). Applicant was not represented by counsel at his bench trial, however, Applicant retained private counsel for his sentencing hearing.

Following a trial, counsel must make certain the defendant is made fully aware of the right to appeal. *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (citation omitted) (*Turner I*); see also *Turner v. State*, 384 S.C. 451, 456, 682 S.E.2d 792, 794 (2009) (finding counsel must inform criminal defendant found guilty of a crime after a trial about the possibility of an appeal) (*Turner II*). “In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).” *Turner*, 380 S.C. at 224, 670 S.E.2d at 374 (citation omitted).

Applicant’s sentencing counsel did not testify at the evidentiary hearing. As such the only evidence for this court to consider is Applicant’s testimony, counsel’s arguments, and the record before it. At the evidentiary hearing, several issues related to Applicant’s bench trial were raised. Counsel argued that Officer Bowles’ description of the evidence to the Court describing Applicant’s arrest surmounted to multiple statements of hearsay.

Additionally, Applicant testified that he was unaware that his case was called for a bench trial at the time Officer Bowles presented the evidence. He testified that he believed Officer Bowles was only stating the facts of his arrest and that the trial court did not offer him the opportunity to question the officer’s presentation of the facts. Applicant testified that he only

realized he had been through a bench trial when the Judge informed him of such at its conclusion. The trial court did not advise Applicant of his right to appeal his conviction or sentence on the record. Because there is no indication or record before this court that a notice of appeal was filed by Applicant or his retained counsel, and the record shows that there are arguably potential issues appropriate for direct appellate review - though ultimately likely to be found procedurally unavailable - this Court finds that in light of the lack of any contradictory evidence, a reasonable defendant would have requested counsel to appeal had he been notified he could do so. *See Alexander v. State*, 303 S.C. 539, 402 S.E.2d 484 (1991); *See also Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000). Therefore, this Court finds that Applicant is entitled to belated review of direct appeal issues pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974).

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations during his bench trial entitling him to relief from this Court. This Court **DENIES** and **DISMISSES** this application with prejudice and **GRANTS** a belated direct appeal pursuant to *White v. State*¹ regarding Applicant's allegations as to trial court error.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules

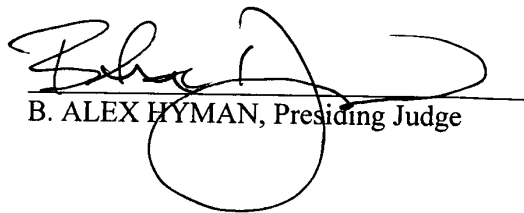
¹ "When the post-conviction relief judge has affirmatively found that the right to a direct appeal was not knowingly and intelligently waived, the Applicant may petition for a writ of certiorari pursuant to Supreme Court Rule 50, § 9. All post-conviction relief issues, including the waiver of a direct appeal, must be raised and argued in the Petition according to the guidelines set forth in Rule 50, § 9(b). The Petition shall include a list of exceptions regarding the direct appeal issues." *Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).

for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. Applicant's application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant is entitled to petition for a writ of certiorari pursuant to the Supreme Court Rule 50, § 9.

AND IT IS SO ORDERED this 17 day of Dec., 2024.


B. ALEX HYMAN, Presiding Judge

STATE OF SOUTH CAROLINA
 COUNTY OF Greenville

CASE # 22-1152

PLAINTIFF	<u>Frederick Jarvis</u>	PLAINTIFF'S ATTORNEY	
DEFENDANT	<u>The State</u>	DEFENDANT'S ATTORNEY	
JUDGE	<u>Hymans</u>	DATE	

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS	COURT'S EXHIBITS
1 ticket	1	1
2 Booking report	2	2
3 Bail form	3	3
4 Commitment	4	4
5 Checklist	5	5
6 Discharge	6	6
7 Transcript	7	7
8 Commitment	8	8
9 booking report	9	9
10 Form IV	10	10
11 Discharge	11	11
12 redacted transcript (D)	12	12
13	13	13
14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
19	19	19
20	20	20

COURT REPORTER: April Herron

CLERK OF COURT Jean White

DATE RECEIVED 5-10-2024

1 Applicant
5-1624

VOID
NOTES DUI

Form S-438
Rev. 08/2017
UNIFORM TRAFFIC TICKET
STATE OF SOUTH CAROLINA
VERSUS

COUNTY OF GREENVILLE

FIRST NAME MIDDLE NAME LAST NAME
FREDERICK MAURICE JARVIS

STREET
905 ALTAMONT RD

CITY STATE ZIP CODE
GREENVILLE SC 29609

DL STATE DRIVER'S LICENSE NO. NONE CLASS CDL
SC YES NO

RACE SEX BIRTH DATE HGT. WGT. HAIR EYES
W M 68 150 BRO BRO

VEH LIC NO NONE STATE MAKE OF VEH YEAR 16 PSGR VEH AUTO BICYCLE COMB. COMM. VEH.
1544PA SC FORD 2013 HAZ. MT. MOPED MTRCYCL PEDESTRIAN OTHER

VEHICLE OWNER FIRST NAME MIDDLE NAME LAST NAME
FREDERICK MAURICE JARVIS

OWNER STREET CITY STATE ZIP CODE
905 ALTAMONT RD GREENVILLE SC 29609

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT 23206 STREET
CITY OF GREENVILLE 426 NORTH MAIN STREET

DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE
10/14/2021 0900 GREENVILLE SC 29601

VIOLATION SECTION NO. VIOLATION - COURT APPEARANCE REQUIRED YES NO
56-05-2930 DUI

DATE OF VIOLATION TIME OF VIOL. SC POINTS B.A. LEVEL REF
10/02/2021 0235

VIOLATION LOCATION COUNTY
I 385 23

LAT LONG CITY
34.85340 -82.3760 GREENVILLE

NAME AND RANK OF ARRESTING OFFICER SCCJA OFFICER NUMBER
HOLFORD G W PO2 9239-4618

BAIL DEPOSITED DATE OF ARREST BOND AMOUNT REQUESTED
0 10/02/2021 \$1,224.50

DATE BAIL REC'D. BY

CASE BEFORE: MAGISTRATE MUN. COURT CIRCUIT COURT FAMILY COURT FEDERAL COURT
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:

TRIAL BY: TRIAL JUDGE JURY DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION DATE DISPOSITION: NOLLE PROSSED GUILTY PLED: NOLLO CONTENDERE
FORFEITED BOND NOT GUILTY DETERMINED BAC:

CHARGE CONVICTED OF SAME AS ORIGINAL SC POINTS

TAL	SUSPEND	FINE	AMT. COLLECTED	AMT. SUSPENDED	COMMITTED TO	Vehicle Searched
						YES
						Arrest as Result of Collision
						NO

Electronic Copy - Trial Officer / Driver's Record
TICKET # 20211090116536 11/04/2021

VIOLATOR

VEHICLE

TRIAL COURT

VIOLATION

OFFICER

ARREST

COURT INFORMATION

INCIDENT NO.

AGENCY/TROOP:

GREENVILLE POLICE DEPARTMENT

Recruit Aaron Bowles

42/A

2 Apollaris
5-16-21

Jail #: 1049 Pack #: 0242566 Juv #: Cell: #Days: Released Date: 10/02/2021 19:10

Name (L/F/M/S): JARVIS FREDERICK MAURICE

Addr: 805 TIMBERLAND RD C: GREER S: SC ZIP: 29651

POB: SC Age: 30 DOB: 12/17/1990 Race: W Sex: M WgtIn: 150 HgtIn: 508

CC: SSN: 592-06-8670 Hair: BRO Eyes: BRO WgtOut: 150 HgtOut: 508

Phone: Rel Pref: NOP Educ: 12 Ins:

Charges: Warrant ORI Case Indict #: DE?

DRIVING UNDER INFLUENCE < .10 1S' 20211090116536 200 21068587

H/L: Court: 4 Commit Judge: MCELRATH Trial Judge: HAWLEY

Arrest: 4:29 10/02/2021 RR: 16:10 10/02/2021 Est: Y

Recognizance Bond of \$1017.00 on 10/02/2021

Attorney: Photo: B.Money: \$0.00

Notify Victim?: N Arresting Off: GHOLFORD Records Clerk: COMPUTER

Booking ORI: 200 Booking Off: ZLEONARD Search Off: EFRISBIE

Release:

Where? Community Judge: MCELRATH

Officer: Paperwork: LBREWTON Computer: EFRISBIE Search: CREEVES

RELEASE COMMENT

pr bond

NextKin (L/F/M/S): DILLIARD PHILLIPPA

Phone: 864-236-1080 Relationship: MO

Addr: 507 TIMBERLAND RD C: GREER S: SC ZIP: 29651

Alias Names

Visitors: Active

MAY UPDATE Y

Property Release Authorization: Active

MAY UPDTE Y

GENERAL COMMENT

2846744

GREENVILLE COUNTY
DETENTION RECORDS
20 McGEE STREET
GREENVILLE, SC 29601

3 AM
5-16-24
RECORD 800-851-086

20211090116536
CRIMINAL CHARGING DOCUMENT NO.

**BAIL PROCEEDING
FORM I**

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE MUNICIPAL COURT OF GREENVILLE

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

v.

Frederick Maurice Jarvis
NAME OF DEFENDANT

Offense Charged: DUI / Driving Under the Influence, less than .10, 1st Offense

IT IS HEREBY ORDERED

I
That the above named defendant be released from custody on his own recognizance without surety on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court, and not depart the State without permission of the court and be of good behavior.

II
That the above named defendant be released from custody upon a recognizance without surety executed by him.

Appearance Recognizance Without Surety

On the 2nd day of October, 2021, personally appeared before the undersigned judge the defendant named above who acknowledged himself indebted to the State of South Carolina, in the sum of \$1,017.00 dollars, to be levied on his real and personal property for the use of the State, if the defendant shall fail in performing the conditions of the Order.

III
That the defendant will notify the court promptly if he changes his address from the one contained in this Order and will comply with the following other conditions of release:

IV
That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on _____ at _____ o'clock, at 305 East North Street, Greenville, SC 29601 (864) 467-3745 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MUNICIPAL COURT OF GREENVILLE beginning on October 14th, 2021 at 9:00 AM, at 426 North Main Street, Greenville, SC 29601 (864) 467-6650
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SIGNATURE OF DEFENDANT

905 Altamont Rd
ADDRESS

Greenville, SC 296096201
CITY/STATE/ZIP

SOCIAL SECURITY NUMBER

TELEPHONE

SC101502830 /
DRIVER'S LICENSE OR ID NUMBER

SIGNATURE OF JUDGE

10/21
DATE

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

Form Approved by SC Attorney General
Section 17-15-40
March 21, 2012

SCCA/510A (Revised 3/2012)

PENNSD 800-481-4
4 Apr
5.16.21

STATE OF SOUTH CAROLINA
CITY OF GREENVILLE

IN THE SUMMARY COURT

COMMITMENT

State of South Carolina

21-068587

vs

Law Enforcement Case Number

Frederick Maurice Jarvis

Case Number

20211090116536

Defendant

DOB: 12/17/1990
905 Altamont Rd
Greenville, SC 296096201

By City of Greenville Judge Alexis McElrath in and for the City of and State aforesaid,

These are to command you forthwith to convey and deliver into custody, Frederick Maurice Jarvis charged before me this date: October 2nd, 2021, on oath of

OFFICER: G. Holford / Greenville Police Department
DETAIN ON charge(s) of: 20211090116536 -DUI / Driving Under the Influence, less than .10, \$1,017.00
1st Offense

TOTAL BOND SET: \$1,017.00
COURT DATE: 10/14/2021 @ 9:00 AM

Bond Conditions:

And you the said KEEPER are required to receive the said Frederick Maurice Jarvis into your custody in the said jail and there safely keep until [s]he be thence delivered by due course of law.
Given under my Hand and Seal, at Greenville, SC on October 2nd, 2021.


Judge Alexis McElrath

Greenville Municipal Court
425 North Main Street
Greenville, SC 29601
Phone: (864) 467-6650
Fax: (864) 467-6651

Frederick Maurice Jarvis

Name of Defendant

5 App
5.16.21

20211090116536

Warrant/Ticket No

County/Municipality of GREENVILLE

Charges: DUI / Driving Under the Influence, less than .10, 1st Offense

Trial Court: MUNICIPAL COURT

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

Directions: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES WHICH BOND IS SET BY A JUDGE. Magistrates and municipal judges must also use the Checklist on those non-bailable GENERAL SESSIONS OFFENSES IN WHICH BOND IS SET BY A JUDGE. Magistrates and municipal judges must also use the Checklist on those non-bailable GENERAL SESSIONS OFFENSES IN WHICH BOND IS SET BY A JUDGE. THE JUDGE SHALL ATTACH THIS CHECKLIST TO THE CHARGING DOCUMENT (ARREST WARRANT OR UNIFORM TRAFFIC TICKET) WHEN THE DEFENDANT FIRST APPEARS BEFORE A JUDGE FOR A BOND HEARING OR FIRST APPEARANCE, AND COMPLETE THE APPROPRIATE SECTIONS. DEFENDANT MUST BE PROVIDED A COMPLETED COPY OF THIS FORM.

BAIL PROCEEDING/ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding Bond Form I (personal recognizance) Bond Form II (surety, cash, percentage)

None (Non-Bailable Offense) because charge carries penalty of life or death; or

defendant charged with violent offense while bonded out on violent offense

2. FM (Def. Initials) For cases in which bond was set, defendant was informed:

a. Warrant for arrest will be issued for violation of any condition of bail bond order.

b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.

c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting trial, or while awaiting sentencing after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. FM (Def. Initials) For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

Orally In writing (NOTE: Defendant must be informed of right both orally and in writing.)

4. FM (Def. Initials) Defendant was informed of the right to trial by jury.

5. FM (Def. Initials) In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

a. Charges against defendant and nature of the charges.

b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.

c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet indigency guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before GREENVILLE MUNICIPAL COURT located at 426 NORTH MAIN STREET, GREENVILLE, SC 29601 for indigency screening. Defendant is responsible for a statutory fee of \$40.00 for indigency screening.

6. FM (Def. Initials) In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant was signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.

7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.

Appearance or Hearing Date: 10/2/21

Judge's Signature

Defendant's Signature

Defendant refused to sign.

6 APR
5:16 PM
FENGUO 800-851-4

STATE OF SOUTH CAROLINA
CITY OF GREENVILLE

IN THE SUMMARY COURT
12/17/1990

DISCHARGE

By City of Greenville Judge, in and for the City of and State aforesaid:

For as much as Frederick Maurice Jarvis, in your custody now for want of his finding sureties to be released on the charge(s) of

CASE #:
20211090116536

OFFENSE:
DUI / Driving Under the Influence, less than
.10, 1st Offense

BOND:
\$1,017.00
(Personal Recognizance)

has posted bond in the amount of: \$1,017.00

BOND POSTED BY:

Frederick Maurice Jarvis
905 Altamont Rd
Greenville, SC 296096201

BOND CONDITIONS:

and hath found me sufficient sureties in that behalf.

These are, therefore, to authorize and require you that if the said Frederick Maurice Jarvis do remain in jail for no other cause, then you forbear to detain him any longer, but suffer him to go at large, and that upon the pain that will fall therein.

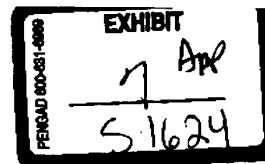
Given under my Hand and Seal, at Greenville, SC on October 2, 2021.



Judge Alexis McElrath

Greenville Municipal Court
426 North Main Street
Greenville, South Carolina 29601
Office: 864-467-6650
Fax: 864-467-6651

DISCHARGE



STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) MUNICIPAL COURT
) Case # 20211090116536

CITY OF GREENVILLE)
)
-v-)
)
FREDERICK JARVIS;) TRANSCRIPT OF HEARING
) October 14, 2021
Defendant.)

Bench trial held before the Honorable Matthew R. Hawley, Greenville Municipal Court Judge

CLERK OF COURT: Frederick Jarvis.

You have been charged with driving under the influence. Do you plead guilty or not guilty?

DEFENDANT JARVIS: Not Guilty.

JUDGE HAWLEY: Alright sir, if you'll raise your right had for me, please sir and promise that the testimony you're about to give in this case to be the truth, the whole truth, and nothing but the truth so help you God.

OFFICER: I do your honor.

JUDGE: Tell me your name sir.

OFFICER: Aaron Bowles.

JUDGE: Aaron Bowles?

OFFICER: OK sir.

JUDGE: Alright Officer Bowles. Tell me about it.

OFFICER: On Saturday October 2nd at approximately 2:34 a.m. while conducting uniform patrol duties myself and Officer Holford observed a 2013 Ford F-150 pick-up bearing South Caroline 154PA at the intersection of Haywood Road and I-385. The F-150 drove through the intersection and onto Northbound I-385 on ramp with an uncontrolled acceleration and squealing its tires. I followed the vehicle which was travelling at a high rate of speed. As I caught up to the vehicle I observed the F-150 unable to maintain its lane and travel crossing from the center line to the left-hand lane multiple times. I activated my blue lights and the

vehicle pulled over to the right side of the road. I approached the vehicle and identified myself and asked for license, registration, and proof of insurance from the driver, who identified himself as Fredrick Jarvis, who is in the court room today. The passenger identified himself as Christopher Pinto who is not here today, I don't believe. While speaking to the occupants I noted the odor of alcoholic beverage emitting from the vehicle. I observed both occupants to have slurred speech, glossy, blood shot eyes. When I asked, both denied consuming alcohol. I elected to remove Mr. Jarvis from the vehicle in order to interview him independently and asses his potential impairment. Jarvis exited the vehicle and I brought him to the median between the patrol car and his pick-up. I asked Mr. Jarvis if he consumed alcohol tonight and he flatly denied this and said that he was a type 1 diabetic and he needed his insulin. Jarvis claimed his blood sugar was normally 90. While explaining this he has difficulty pronouncing certain words, slurred speech and swayed continually. I went back to the passenger, Pinto, and asked him where they were drinking tonight, and Pinto stated that he was with Jarvis the whole evening and that they started drinking alcohol downtown at approximately 10 p.m. near Stone Pizza and then TD's as well as two other establishments. I asked what they drank, and he said they drank gin and tonics as well as beer. I confronted Jarvis with this information, and he continued to deny drinking and claimed he was having a diabetic reaction and could tell his blood sugar was over 500. I offered Jarvis the opportunity to perform SFSTs and he said he would need to talk to his attorney first. I placed him under arrest for DUI and I conducted a search of his person before he was secured in the back of my patrol vehicle. While in the back of the patrol car Jarvis questioned as to why he was being arrested and insisted to speak to his attorney and also have his blood sugar checked. He was advised of his Miranda warning and declined to make any statements to us. Pento was picked up by an Uber driver and his vehicle was towed. While en route to the jail, Mr. Jarvis continued to demand to speak to his attorney and be evaluated for his blood sugar. As we arrived at the jail, we asked EMS to respond. While in the BA testing room EMS arrived and checked Jarvis' blood sugar which was 333. EMS personnel declined

to transport him stating the hospital cannot do anything for him and after a 20-minute observation period I read Jarvis the implied consent advisory and he refused to provide a breath sample. Jarvis also refused to sign any documents. While in the jail, medical staff checked Jarvis' blood sugar which was now 327 and elected to give him insulin. While speaking to medical staff Jarvis claimed he was in diabetic ketoacidosis. Medical staff stated the appearance of Jarvis' eyes were inconsistent with DK which is diabetic ketoacidosis and more consistent with having consumed alcohol.

JUDGE: Okay. What would you like to tell me about this Mr. Jarvis?

DEFENDANT: I would like to ask for a continuance.

JUDGE: Well, you had that opportunity earlier when I asked anyone who wanted one to come up. You just had a bench trial.

DEFENDANT: Well, uh, I wasn't here for that part.

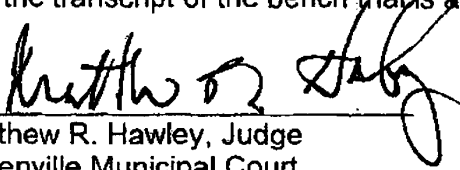
JUDGE: Well, that's on you for getting here late. Have him sit over in the box. You're in custody. Who's the lawyer you keep wanting to talk to? We'll call him and tell him to go see you down in detention.

DEFENDANT: Alright.

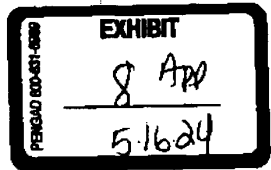
JUDGE: Next case madam clerk.

CERTIFICATION OF BENCH TRIAL TRANSCRIPT

I, JUDGE MATTHEW R. HAWLEY certify that I presided over the bench trial in the case of The City v. Frederick Jarvis on October 14, 2021. I further state that I have reviewed the transcript of the bench trial and I have listened to the tape recording of the trial. I find that the transcript of the bench trial is accurate and I so certify.


Matthew R. Hawley, Judge
Greenville Municipal Court

Greenville, South Carolina
Date: 9/13/21



STATE OF SOUTH CAROLINA
CITY OF GREENVILLE

) IN THE SUMMARY COURT
) COMMITMENT

To any Lawful Constable or Officer and to the Keeper of the Common Jail in said
Greenville County:

By City of Greenville in the Municipal Court

WHEREAS: One Frederick Maurice Jarvis on 10/14/2021 was convicted in this court of:

20211090116536 - DUI / Driving Under the Influence, less than .10, 1st Offense

✓
TOTAL SENTENCE: HOLD FOR SENTENCING

This order is to command you to take and convey him/her to the common jail.
The keeper of said jail is hereby commanded to receive the said defendant and to
safely keep until s/he shall be thereof discharged by due course of law.

Given under my hand and seal in City of Greenville:

October 14th, 2021

Judge Matthew R. Hawley

DEFENDANT INFORMATION

Name: Frederick Maurice Jarvis
Address: 905 Altamont Rd
Greenville, SC 296096201
DL State/Number: SC / 101502830
Height: 5'8"
Weight: 150
SSN: 592-06-8670
DOB: 12/17/1990
Sex/Race: M / W

City of Greenville
426 North Main Street
P.O. Box 488
Greenville, SC 29601
Phone: 864-467-6650 Fax: 864-467-6651

S/MM 10/25/21

MC31

PJMURK
2/4/2022 11:54:15AM

Greenville County Detention Center
Inmate QuickView - E-Booking Report

9 APR
5-16-24
FBI/AD 800-871

Jail #: 0068 Pack #: 0242566 Juv #: Cell: #Days: 12:12
Booked: 10/14/2021 10:59 Released Date: 10/21/2021
Name (L/F/M/S): JARVIS FREDERICK MAURICE
Addr: 905 ALTAMONT RD C: GREENVILLE S: SC ZIP: 29609
POB: FL Age: 30 DOB: 12/17/1990 Race: W Sex: M WgtIn: 155 HgtIn: 508
CC: SSN: 592-06-8670 Hair: BLK Eyes: BRO WgtOut: 155 HgtOut: 508
Phone: 864-720-8883 Rel Pref: NOP Educ: 14 Ins:

Charges: Warrant ORI Case Indict #: DE?
DRIVING UNDER INFLUENCE < .10 1S' 20211090116536 200 HOLD/COURT
H/L: Court: 4 Commit Judge: HAWLEY Trial Judge: HAWLEY
Arrest: 10:59 10/14/2021 RR: 10:13 10/21/2021 Est: Y
Sentenced on 10/14/2021 - see Charge Comments

Attorney: Photo: B.Money: \$0.00
Notify Victim?: N Arresting Off: TOTHEROW Records Clerk: COMPUTER
Booking ORI: 200 Booking Off: CCUSTER Search Off: LACOB

Release:
Where? Community Judge: HAWLEY
Officer: Paperwork: TLOWDEN Computer: JROBINETTE Search: JCOZZOLI

RELEASE COMMENT
NOT STATED

NextKin (L/F/M/S): BUCKNER MARIA
Phone: 864-274-1101 Relationship: FR
Addr: 905 ALTAMONT RD C: GREENVILLE S: SC ZIP: 29609

Allie Names

Visitors: Active
STATES NO ONE Y

Property Release Authorization: Active
JARVIS DILLARD PHILLIPPA CPL CUSTER N

DNA RLS RESTRICTION COMMENT
INMATE CHARGES NO LONGER REQUIRE DNA COLLECTION
INMATE CHARGES NO LONGER REQUIRE DNA COLLECTION
INMATE CHARGES NO LONGER REQUIRE DNA COLLECTION
GENERAL COMMENT
initial book
SENTENCE COMMENT
Hold for sentencing

GREENVILLE COUNTY
DETENTION RECORDS
20 MOORE STREET
GREENVILLE, SC 29601



10 Apr
5-16-24
PENNOAD 000-001-08

DEFENSE OF INDIGENTS ACT
FORM NO. IV

IN THE MUNICIPAL COURT, CITY OF GREENVILLE

STATE OF SOUTH CAROLINA

ORDER OF APPOINTMENT OF
LEGAL COUNSEL
FOR INDIGENT DEFENDANT

Date of Arrest:

Charge(s):

DUI / Driving Under the Influence, less than .10, 1st
Offense

Warrant/Ticket Number(s):

20211090116536

STATE OF SOUTH CAROLINA

vs.

Frederick Maurice Jarvis

DEFENDANT

ADDRESS: 905 Altamont Rd
Greenville, SC 296066201

DOB: [REDACTED] Race/Sex: White / Male

PHONE NUMBER: _____

The Defendant contends that (s)he is indigent and in need of services of an attorney as contemplated by law. Therefor _____ Attorney at Law, is appointed as counsel for the above named defendant.

MUNICIPAL COURT

This 15th day of October, 2021 at 11:49 a.m.

In jail: _____

Jury Trial: _____

Court Date: 10/21/2021 Time: 8:00 AM

JUDGE

CRIMINAL JUSTICE COORDINATOR

FOR APPOINTMENT OF COUNSEL, DELIVER THIS FORM TO:

THE OFFICE OF INDIGENT DEFENSE - GREENVILLE COUNTY COURTHOUSE, 301 EAST NORTH STREET, ROOM 122, GREENVILLE, SOUTH CAROLINA 29601. PHONE NUMBER: 864-487-8527.

FAILURE TO DELIVER THIS FORM MAY RESULT IN A TRIAL WITHOUT AN ATTORNEY.

Signed: _____

Defendant

11 App
5.16.24

STATE OF SOUTH CAROLINA

IN THE SUMMARY COURT

CITY OF GREENVILLE

DISCHARGE

By Greenville Municipal Court Judge, in and for the City of Greenville and State aforesaid:

For as much as Frederick Maurice Jarvis, in your custody now for want of his finding sufficient to be released on the charges of:

Case # / Offense: 10211000000000000000 Driving Under the Influence, less than 10, 1st Offense

is hereby ordered to be RELEASED on the bond of \$10,000.00.

These are, therefore, to advise you and require you that if the said Frederick Maurice Jarvis do remain in jail for any other cause, then you for fear to detain him any longer, but suffer him to go at large and that upon the grand jury will fall the blame.

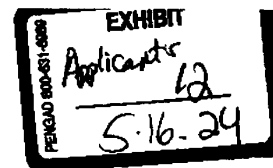
Given under my Hand and Seal of Greenville Municipal Court on October 21, 2021



JUL 13 2021

Greenville Municipal Court
425 North Main Street
Greenville, SC 29603
Phone: (864) 467-6631
Fax: (864) 467-6631

MCR



STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) MUNICIPAL COURT
) Case # 20211090116536

CITY OF GREENVILLE)
)
-v-)
) TRANSCRIPT OF HEARING
FREDERICK JARVIS,) October 14, 2021
)
Defendant.)

Bench trial held before the Honorable Matthew R. Hawley, Greenville Municipal Court Judge

CLERK OF COURT: Frederick Jarvis.

You have been charged with driving under the influence. Do you plead guilty or not guilty?

DEFENDANT JARVIS: Not Guilty.

JUDGE HAWLEY: Alright sir, if you'll raise your right had for me, please sir and promise that the testimony you're about to give in this case to be the truth, the whole truth, and nothing but the truth so help you God.

OFFICER: I do your honor.

JUDGE: Tell me your name sir.

OFFICER: Aaron Bowles.

JUDGE: Aaron Bowles?

OFFICER: OK sir.

JUDGE: Alright Officer Bowles. Tell me about it.

OFFICER: On Saturday October 2nd at approximately 2:34 a.m. while conducting uniform patrol duties myself and Officer Holford observed a 2013 Ford F-150 pick-up bearing South Caroline 154PA at the intersection of Haywood Road and I-385. The F-150 drove through the intersection and onto Northbound I-385 on ramp with an uncontrolled acceleration and squealing its tires. I followed the vehicle which was travelling at a high rate of speed. As I caught up to the vehicle I observed the F-150 unable to maintain its lane and travel crossing from the center line to the left-hand lane multiple times. I activated my blue lights and the

vehicle pulled over to the right side of the road. I approached the vehicle and identified myself and asked for license, registration, and proof of insurance from the driver, who identified himself as Fredrick Jarvis, who is in the court room today. The passenger identified himself as Christopher Pinto who is not here today, I don't believe. While speaking to the occupants I noted the odor of alcoholic beverage emitting from the vehicle. I observed both occupants to have slurred speech, glossy, blood shot eyes. When I asked, both denied consuming alcohol. I elected to remove Mr. Jarvis from the vehicle in order to interview him independently and assess his potential impairment. Jarvis exited the vehicle and I brought him to the median between the patrol car and his pick-up. I asked Mr. Jarvis if he consumed alcohol tonight and he flatly denied this and said that he was a type 1 diabetic and he needed his insulin. Jarvis claimed his blood sugar was normally 90. While explaining this he has difficulty pronouncing certain words, slurred speech and swayed continually. ~~I went back to the passenger, Pinto, and asked him where they were drinking tonight, and Pinto stated that he was with Jarvis the whole evening and that they started drinking alcohol downtown at approximately 10 p.m. near Stone Pizza and then TD's as well as two other establishments. I asked what they drank, and he said they drank gin and tonics as well as beer.~~ I confronted Jarvis with this information, and he continued to deny drinking and claimed he was having a diabetic reaction and could tell his blood sugar was over 500. I offered Jarvis the opportunity to perform SFSTs and he said he would need to talk to his attorney first. I placed him under arrest for DUI and I conducted a search of his person before he was secured in the back of my patrol vehicle. While in the back of the patrol car Jarvis questioned as to why he was being arrested and insisted to speak to his attorney and also have his blood sugar checked. He was advised of his Miranda warning and declined to make any statements to us. Pinto was picked up by an Uber driver and his vehicle was towed. While en route to the jail, Mr. Jarvis continued to demand to speak to his attorney and be evaluated for his blood sugar. As we arrived at the jail, we asked EMS to respond. While in the BA testing room EMS arrived and checked Jarvis' blood sugar which was 333. EMS personnel declined

to transport him stating the hospital cannot do anything for him and after a 20-minute observation period I read Jarvis the implied consent advisory and he refused to provide a breath sample. Jarvis also refused to sign any documents. ~~While in the jail, medical staff checked Jarvis' blood sugar which was now 327 and elected to give him insulin. While speaking to medical staff Jarvis claimed he was in diabetic ketoacidosis. Medical staff stated the appearance of Jarvis' eyes were inconsistent with DK which is diabetic ketoacidosis and more consistent with having consumed alcohol.~~

JUDGE: Okay. What would you like to tell me about this Mr. Jarvis?

DEFENDANT: I would like to ask for a continuance.

JUDGE: Well, you had that opportunity earlier when I asked anyone who wanted one to come up. You just had a bench trial.

DEFENDANT: Well, uh, I wasn't here for that part.

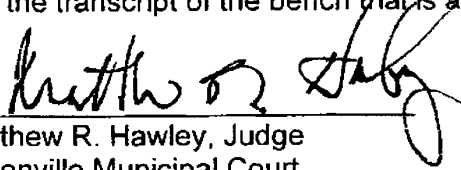
JUDGE: Well, that's on you for getting here late. Have him sit over in the box. You're in custody. Who's the lawyer you keep wanting to talk to? We'll call him and tell him to go see you down in detention.

DEFENDANT: Alright.

JUDGE: Next case madam clerk.

CERTIFICATION OF BENCH TRIAL TRANSCRIPT

I, JUDGE MATTHEW R. HAWLEY certify that I presided over the bench trial in the case of The City v. Frederick Jarvis on October 14, 2021. I further state that I have reviewed the transcript of the bench trial and I have listened to the tape recording of the trial. I find that the transcript of the bench trial is accurate and I so certify.


Matthew R. Hawley, Judge
Greenville Municipal Court

Greenville, South Carolina
Date: 9/13/21

STATE OF SOUTH CAROLINA)	
COUNTY OF GREENVILLE	)	COURT OF COMMON PLEAS
FREDERICK JARVIS,)	
Applicant,	)	Case No. 2022-CP-23- 01152
)	
v.	)	<u>MOTION TO ALTER JUDGMENT</u>
	)	Rule 59, SCRPC
STATE OF SOUTH CAROLINA,)	
Respondent.)	

THE APPLICANT moves to alter the Judicial Order (Order) in this case issued by the Honorable B. Alex Hyman on December 19, 2024. The grounds for this motion are the following.

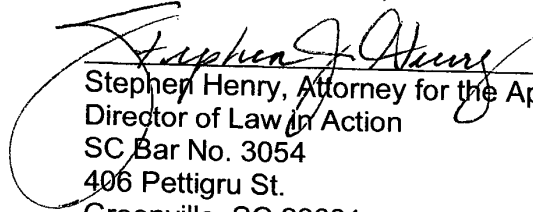
1. After concluding that the Applicant would have been entitled to a free lawyer, that the trial judge did not address the Applicant's right to counsel and that the Applicant did not waive his right to counsel the Order should have granted the Applicant post-conviction relief and ordered a new trial.
2. After concluding that the Applicant's right to a jury trial was not addressed by the trial judge and there having been no waiver by the Applicant of his right to a jury trial, the Order should have GRANTED post-conviction relief and ordered a new trial.
3. By granting Applicant a right to a belated appeal when the Applicant made no objections during the trial, the Order has provided no relief to the Applicant since a belated appeal has no chance of success.
4. The Order did not identify any issue upon which the Applicant could submit a direct appeal.
5. The Order did not provide an explanation as to why the Applicant was denied post-conviction relief in light of the factual findings that the Applicant's constitutional rights were violated.
6. The Order did not address the Applicant's claim that he was denied the right to cross examine the witness for the city.
7. The Order did not permit the Applicant to present a witness at the post-conviction relief hearing (Christopher Pinto) to demonstrate how the trial

would have had a different outcome had the witness been permitted to testify.

8. The Order did not address the impact on the bench trial's outcome of the Applicant not having counsel represent him in light of the inadmissible hearsay evidence that was presented at trial without objection.
9. The Order did not address the issue of the Applicant not being allowed a clear chance to testify on his own behalf.

WHEREFORE the Applicant, through counsel, asks that the Judicial Order be altered to reflect the points raised herein.

Respectfully submitted,


Stephen Henry, Attorney for the Applicant
Director of Law in Action
SC Bar No. 3054
406 Pettigru St.
Greenville, SC 29601
(864) 232-9700
sjhlaw@sjhlaw.com

Greenville, South Carolina

December 27, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	CASE #: 2022-CP-23-01152
)	
FREDERICK JARVIS,	)	RETURN TO APPLICANT'S MOTION
Applicant,	)	TO ALTER OR AMEND JUDGMENT
	)	PURSUANT TO RULE 59(e), SCRPC.
v.)	
STATE OF SOUTH CAROLINA)	
<u>Respondent.</u>)	

The State, by and through the Attorney General's Office, makes the following Return in opposition to the Applicant's Motion to Alter or Amend Judgment, requesting it be denied. In support of this position, Respondent respectfully submits the following:

1. Applicant's motion to alter or amend merely expresses disagreement with the ruling and points to no specific error in the findings of facts or conclusions of law.
2. Applicant incorrectly states that the Order did not identify any issue for direct appeal, as the Court concluded Applicant is entitled to a belated appeal of the conviction for "issues arising from his bench trial". Applicant can raise any issues he believes were errors of law in the direct appeal, the success or failure of those issues is not a factor for the Court to consider. *See* Rule 243(i)(1), SCACR. *See also* *Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).
3. Notably, this matter was thoroughly presented at the hearing and in multiple post-hearing submissions with input from all parties. *See generally* *Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019) ("The preparation and finalization of a PCR order is often a collaborative effort."). Respondent submits that the Court was fully advised of all arguments and the positions of each party, and the Order reflects the ruling on same.

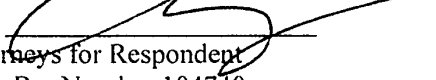
WHEREFORE, the State respectfully requests the Court deny the Respondent's Motion to Alter or Amend Judgment, or for other such relief as is just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

Signature follows on next page

CHRISTOPHER S. RUNYAN
Assistant Attorney General

By: 
Attorneys for Respondent
S. C. Bar Number 104740
Post Office Box 11549
Columbia, South Carolina 29211
Direct: 803-734-1173; crunyan@scag.gov

January 8, 2025
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FREDERICK JARVIS,

Applicant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE THIRTEENTH JUDICIAL CIRCUIT
)

) Case No.: 2022-CP-23-01152
)

) **ORDER DENYING APPLICANT’S MOTION**
) **TO ALTER OR AMEND JUDGMENT**
) **PURSUANT TO RULE 59(e), SCRPC**
)
)
)
)

25 AUG 26 AM 11:21
JAY GRESHAM CJC GVL SC

THIS MATTER is before the Court by way of a motion to alter a judicial order (“ORDER”) issued by Judge B. Alex Hyman on December 19, 2024. The applicant is represented by Stephen Henry, Esq., and the State is represented by Assistant Attorney General Christopher Runyan.

Applicant challenged an October 14, 2021, conviction for Driving Under the Influence First Offense through an application for post-conviction relief (“PCR”). An evidentiary hearing was held on May 16, 2024. Following the evidentiary hearing, the Court received multiple post-hearing submissions with input from both parties. On December 19, 2024, the Court issued the ORDER denying and dismissing the Applicant’s PCR application with prejudice and granted a belated appeal pursuant to *White v. State*. On December 27, 2024, the Applicant filed a motion to alter judgment pursuant to Rule 59, SCRPC.

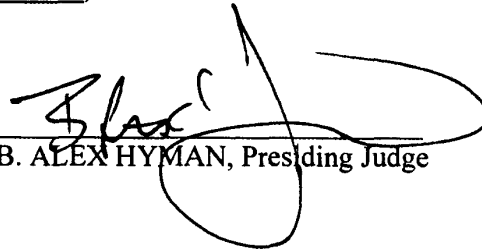
This Court finds that Applicant’s motion to alter or amend merely expresses disagreement with the ruling and points to no specific error in the findings of facts or conclusions of law. Applicant can raise any issues he believes were errors of law in the direct appeal, the success or failure of those issues is not a factor for this Court to consider. *See* Rule 243(i)(1), SCACR. *See also Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).

Further, this Court finds the matter was thoroughly presented at the hearing and in multiple post-hearing submissions with input from all parties. *See generally Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019) (“The preparation and finalization of a PCR order is often a collaborative effort.”). The Court is satisfied that it was fully advised of all arguments and the positions of each party, and the ORDER reflects the ruling on the same.

After careful consideration and review, this Court respectfully denies the Applicant’s Motion to Alter Judgment.

IT IS THEREFORE ORDERED that Applicant’s Motion to Alter Judgment is **DENIED**.

IT IS SO ORDERED this 21 day of Aug., 2025.


B. ALEX HYMAN, Presiding Judge

Conway, South Carolina

Copy mailed to
Attorney general / Stephen Henry ✓
on 8 / 26 / 2025.